

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**08/06/19
01:40 PM

August 6, 2019

Agenda ID # 17635
Quasi-Legislative

TO PARTIES OF RECORD IN INVESTIGATION 14-05-012:

This is the proposed decision of Commissioner Rechtschaffen. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 12, 2019 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:ilz

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER RECHTSCHAFFEN**
(Mailed on 8/6/2019)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Address
Intrastate Rural Call Completion Issues.

Investigation 14-05-012

**DECISION DETERMINING DECISION 16-12-066 HAS BEEN COMPLIED WITH
AND CLOSING INVESTIGATION 14-05-012**

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DECISION CLOSING INVESTIGATION 14-05-012**Summary**

This Decision closes Investigation 14-05-012 because Commission staff, respondents, and the applicable parties have completed their tasks ordered by Decision 16-12-066.

Service quality issues remain a high priority at the Commission. This Decision directs any party who believes that the Commission should engage in any additional intrastate rural call completion regulation or investigation to ensure telecommunications service quality to raise those concerns in one or more of the following open Commission proceedings that have identified telecommunications service quality in emergency situations as being part of their purview: Rulemaking (R.) 18-03-011¹ and R.18-12-005.² In addition, the examination of the network condition, facilities, policies, practices and procedures of AT&T and Frontier (former Verizon Territories) is underway, with a final report expected in 2019. This report will give us additional, in-depth information on service quality issues, and offer a basis for the Commission to consider next steps to address these issues in a more comprehensive and informed way, either through current or future proceedings. The Commission remains dedicated to ensuring that telecommunications carriers to maintain and improve service quality, and to understanding how outages impact service quality, ratepayers, and public safety. Closing the instant proceeding will not preclude any party from commenting on these important issues in the Commission's remaining open proceedings.

This proceeding is closed.

¹ *Order Instituting Rulemaking (OIR) Regarding Emergency Disaster Relief Program.*

² *OIR to Examine Electric Utility De-Energization of Power Lines in Dangerous Conditions.*

1. Background

1.1. The Order Instituting Investigation (OII)

On May 15, 2014, the Commission opened OII I.14-05-012 to “begin[] a review of intrastate call completion issues in California, particularly among call completion failures in rural areas of the state.”³ Consumer and rural carrier complaints regarding call completion failures and related service issues prompted the Commission to issue the underlying OII,⁴ which requested

comments to better understand causes of rural call completion failures, to evaluate how intrastate call completion failures can be addressed at the state level, how carriers can be encouraged to address call completion failures, what existing rules could be revised or amended, and what new rules might be adopted.⁵

The OII explained the statutory and legal mandates authorizing the Commission’s Investigation, citing, among others, the duties of all telephone corporations to provide just and reasonable service (Public Utilities (Pub. Util.) Code § 451) and to receive, transmit, and deliver calls without discrimination or

³ OII at 1. “Call completion problems,” “call termination issues,” and/or “call completion failure” are used interchangeably and have the same meaning within the OII’s context. (*See ibid.*)

⁴ D.16-12-066 at 2. Call completion issues and failures were defined in this proceeding as calls that were initiated, but not completed by a carrier, for any reason, whether from an urban to a rural area (referred to as “rural call completion problems”), or other types of calls not completed, including calls to 9-1-1, and other abbreviated dialing or short code calls that cannot access a short code such as 2-1-1 or 8-1-1, or other issues with call completion such as false disconnected messages. (*See* D.16-12-066 at 8; *see also* OII at 25.)

⁵ OII at 2.

delay (Pub. Util. Code § 558).⁶ The OII also cited Decision (D.) 97-11-024,⁷ in reiterating that “ ‘[t]he obligation to complete calls applies not just to Incumbent Local Exchange Carriers (ILECs), but equally to all carriers involved in the origination, routing, and completion of calls.’ ”⁸

This proceeding benefited from a significant amount of input from the Respondents,⁹ other parties,¹⁰ the public, and from other government entities also involved with the regulation of service quality. For example, the OII analyzed a survey conducted by the Commission’s Communications Division (CD) that asked both rural and urban carriers to report their intrastate call completion

⁶ OII at 2-3. Appendix D of the OII contained excerpts of further provisions in the Public Utilities Code that were relevant to call completion failures. All section references are to the Public Utilities Code, unless otherwise stated.

⁷ *Re Competition for Local Exchange Service* (1997) 76 Cal.P.U.C.2d 458.

⁸ (See OII at 4.) Specifically, “[e]ven though carriers may have a variety of call routing options and methodologies, the originating call carrier, the intermediate router and the terminating carrier are all responsible for ensuring call delivery to the end user, regardless of any financial or otherwise business decision made by the involved carriers.” (*Ibid.*)

⁹ The OII named the following entities to be included as Respondents, and thus, parties to the OII: “all carriers that are eligible to draw support from California High Cost Fund A (CHCF-A) or B (CHCF-B), including: Calaveras Telephone Company, California-Oregon Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, the Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, the Volcano Telephone Company, and Winterhaven Telephone Company, AT&T California, Verizon of California (includes three (3) companies: Contel, GTE and MCI Metro Access), Frontier Communications of California (includes Citizens and Frontier SouthWest), Cox California Telecom (Cox Communications), and SureWest Communications (SureWest). (OII at 39-40.)

¹⁰ Among the other parties were: The California Cable and Telecommunications Association (CCTA), Charter Fiberlink CA-CCO, LLC (Charter), Comcast Phone of California LLC (Comcast California), Consolidated Communications of California Company (CCC), Cox California Telecom, LLC dba Cox Communications (Cox Communications), CTIA, MCI Metro Access Transmission Services Corp. (MCI Metro), and Time Warner Cable Information Services (California) LLC (TWCIS California).

failures.¹¹ The OII found that the “CD survey confirms the failures of call completions reported by rural California customers.”¹² In addition, the Commission held numerous Public Participation Hearings (PPHs) and workshops.¹³ The transcripts from the workshops were placed into the record as workshop reports.¹⁴ Following some of the PPHs and workshops, the assigned Commissioner issued several Assigned Commissioner Rulings (ACRs) seeking comments from the public and parties on call completion issues raised in workshops and PPHs, including “call completion and dial-tone/9-1-1 access conditions in their locations that they believe impact public safety and safe, reliable telephone service.”¹⁵ Finally, the Commission also took official notice of other relevant state and federal service quality proceedings.¹⁶

1.2. Decision 16-12-066

On January 4, 2017, the Commission issued D.16-12-066, which made major critical findings. First, the Decision identified key causes of call completion failures, including software driven issues, facilities and network design issues, and service issues.¹⁷ Second, the Decision also identified data gaps and analyzed

¹¹ See OII at 4-6.

¹² OII at 6.

¹³ *Ibid.*

¹⁴ See Assigned Commissioner’s Ruling Inviting Party and Public Comments Regarding Issues Raised at Public Participation Hearings and Workshops (September 8, 2016) at 1.

¹⁵ See Assigned Commissioner’s Ruling Inviting Party and Public Comments Regarding Issues Raised at Public Participation Hearings and Workshops (September 8, 2016) at 2; see also Assigned Commissioner’s Ruling Requesting Party and Public Comments Regarding Issues Raised at the Santa Cruz California Public Participation Hearing and Workshop (September 27, 2016).

¹⁶ D.16-12-066 at 2.

¹⁷ See D.16-12-066 at 2.

suggestions to address these issues.¹⁸ Third, the Decision identified 9-1-1 and database issues, as well as the need for local, county, and state public safety officials to have carrier contact information.¹⁹ Fourth, the Decision identified the need for action regarding reporting to eliminate data gaps and provided recommendations to address these issues.²⁰ Specifically, the Decision identified a gap for reporting outages not triggered by customer or carrier repair tickets or by the FCC's Network Outage Reporting System (NORS) reporting standard of 900,000 user minutes,²¹ which was an issue raised in the May 6, 2015 Scoping Memo.²² This threshold was adopted by Decision 09-07-019 and in General Order (GO) 133 C Section 4 for reporting major service interruptions.

But the Commission declined to pursue further rules through a Rulemaking to address the problems identified in comments, at workshops, and the PPHs.²³ Instead, the Commission issued orders and directives to both carriers and Commission staff in the form of 26 Ordering Paragraphs (OP).²⁴ To effectuate these order and directives, D.16-12-066 ordered a Phase 2 of the

¹⁸ *Ibid.*

¹⁹ See D.16-12-066 at 69-77.

²⁰ See D.16-12-066 at 138-153.

²¹ See D.16-12-066 at 150-153.

²² See Assigned Commissioner's Scoping Memo and Ruling (May 6, 2015), Attachment A, Question 8 at 4.

²³ See D.16-12-066 at 42. The *Scoping Memo and Ruling* and Various ACRs issued recited the numerous issues raised in comments and at the PPHs. See *Assigned Commissioner's Scoping Memo and Ruling* (May 6, 2015); see also *Assigned Commissioner's Ruling Inviting Party and Public Comments Regarding Issues Raised at Public Participation Hearings and Workshops* (September 6, 2016); *Assigned Commissioner's Ruling Requesting Party and Public Comments Regarding Issues Raised at the Santa Cruz California Public Participation Hearing and Workshop* (September 27, 2016).

²⁴ See D.16-12-066 at 3-7.

Investigation to explore whether the Commission should require Respondent carriers to report outages to public safety officials at the local, county, and state level.²⁵ In Phase 2, the Commission would address call completion reporting with these government agencies and determine any ways to improve communications between carriers and first responders during emergency situations.²⁶

1.3. The Phase II Scoping Memo and Ruling

In conformity with D.16-12-066, the assigned Commissioner issued a *Phase II Scoping Memo and Ruling* on March 6, 2017 (*Phase II Scoping Ruling*), which divided Phase II into five areas of concern: First, there were carryover requirements from D.16-12-066, in which the respondents were required to comply with OPs 1, 2, 5, 6, 7, 11, and 16, and were given an extension of time until June 1, 2017 in which to comply.²⁷ Second, there the outage reporting requirements (OP 21) and the need for a Working Group to discuss and recommend outage reporting thresholds, requirements, and protocols that reflect California's public safety needs and Commission responsibilities (OP 22).²⁸ Third, the Commission was tasked to determine the completeness of the telephone carrier's responses to OPs 1, 2, 5, 6, 7, 11, and 16, and determine if any clarifying or follow up information should be required.²⁹ Fourth, the Commission was tasked with determining if any new requirements should be

²⁵ See D.16-12-066 at 152.

²⁶ See D.16-12-066, OPs 21 & 22, at 183. D.16-12-066 was subsequently modified by D.18-07-066 which minor corrections to the decision.

²⁷ *Scoping Ruling* at 2-3.

²⁸ *Id.*, at 3.

²⁹ *Id.*, at 4.

imposed on the telephone carriers, consistent with the Commission's regulatory authority and the scope of this proceeding.³⁰ Fifth, the Commission was directed to develop guidelines to ensure that transfers or mergers do not compromise safe and reliable service.³¹

In response to the schedule established in the *Phase II Scoping Ruling*, the following parties served and filed comments on April 3, 2017: California Cable & Telecommunications; Citizens Telecommunications Company of California, Frontier California, Inc.; and Frontier Communications of the Southwest, Inc.; CTIA; Office of Ratepayer Advocates (ORA); Pacific Bell Telephone Company (Pac Bell); and The Utility Reform Network. The following parties served and filed reply comments on April 12, 2017: California Cable & Telecommunications; Mendocino County; ORA; and Pac Bell.³²

1.4. Joint Consumers' Motion to Set a Procedural Schedule

On December 21, 2017, Joint Consumers (consisting of Center for Accessible Technology [CAT] and The Utility Reform Network [TURN]) filed a *Motion for Procedural Schedule in Phase 2*. Joint Consumers asked that the Commission issue a procedural schedule for Phase 2 to oversee implementation of the various requirements of D.16-12-066. Because of fires that occurred in 2017,³³ Joint Consumers ask that the Commission accelerate work underway in

³⁰ *Id.*

³¹ *Id.*

³² On September 4, 2018, the Commissioner issued his *Amended Phase II Scoping Memo and Ruling*, which updated the scheduling. No changes were made to the scope of Phase II.

³³ There were a cluster of fires in Northern California that have been labeled the Wine Country Fires, and a cluster of fires in Southern California, the largest of which was called the Thomas Fire.

Phase 2 of this proceeding and increase transparency of any efforts to improve network reliability during emergency situations.³⁴

Joint Consumers also claim that it is essential that network reliability be undertaken in Phase 2 because newly opened Commission proceedings would not deal with this issue. For example, Joint Consumers assert that R.15-06-009 addresses emergency preparedness plans exclusively for electrical corporations and regulated water utilities, but not telecommunications providers.³⁵ Joint Consumers next cite to R.18-03-011, claiming that the proceeding addresses all regulated utilities, including telecommunications carriers, but is focused on post-disaster consumer protections.³⁶

1.5. Modification of D.16-12-066

On July 31, 2018, the Commission issued D.18-07-045, entitled *Order Modifying Decision 16-12-066, and Denying Rehearing of Decision, as Modified*. The Commission modified OP 20 to eliminate the requirement that respondents “provide concurrent notice of such outages to the California State Warning Center of the California Office of Emergency Services (Cal OES), and require such reports or notice to be made as soon as possible, but no later than 60 minutes after their discovery of such outages[,]” reasoning that GO 133-D deems the outage reports to be confidential.³⁷ D.18-07-046 also modified OPs 2,

³⁴ Joint Consumers’ Motion at 6-7.

³⁵ *Id.*, at 8, citing to the Assigned Commissioner’s Phase II Scoping Memo and Ruling issued in R.15-06-009 on May 31, 2018.

³⁶ *Id.*, at 8, citing to Assigned Commissioner’s Scoping Memo and Ruling issued in R.18-03-011 on June 29, 2018.

³⁷ D.18-07-045 at 25.

5, 6, 7, and 15 to replace the term “carriers” with “Respondents” to remove any possible ambiguity in these orders.³⁸

1.6. Administrative Law Judge’s Ruling

On October 29, 2018, the assigned Administrative Law Judge issued his *Ruling Seeking Party Comments Regarding Compliance with Ordering Paragraphs in D. 16-12-066 and Phase II Scoping memo and Ruling of Assigned Commissioner (ALJ Ruling)*. On November 28, 2018, the following parties filed and served opening comments: California Cable and Telecommunications Association (CCTA), Center for Accessible Technology (filed jointly with the County of Mendocino and The Utility Reform Network (TURN), and referred to collectively as Joint Parties), Consolidated Communications of California (Consolidated), MCIMetro Access Transmission Services, Pacific Bell Telephone Company dba AT&T California (AT&T), Public Advocates Office (PAO),³⁹ and the Small LECs.⁴⁰

On December 13, 2018, the following parties filed and served reply comments: California Cable and Telecommunications Association (CCTA), CAT (filed jointly with Mendocino and TURN), CTIA, PAO, and the Small LECs.

In this decision, the Commission addresses and resolves parties’ comments as they relate to either an OP or the questions raised in the *ALJ Ruling*. As the

³⁸ *Id.*, at 8.

³⁹ The Office of Ratepayer Advocates was renamed the Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which was signed by Governor Brown on June 27, 2018 (Chapter 51, Statutes of 2018).

⁴⁰ The Small LECs are Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company.

Commission will demonstrate, Commission Staff and, as required, Respondents have complied with the OPs so that this proceeding should be closed.

2. Compliance with Ordering Paragraphs

2.1. OP 1

We direct the Consumer Protection and Enforcement Division and the Communications Division to seek data to analyze why for certain carriers there were large gaps between attempted calls and completed calls to or from California, based on Federal Communications Commission data, and shall recommend appropriate action to close that gap and ensure that calls are completed consistent with California Law. The data shall be provided to the Commission's Communications Division no later than March 31, 2017.

2.1.1. Compliance Summary, Party Comments, and Discussion

The Commission's Communications Division sought and received California-specific, quarterly call completion data from the Federal Communications Commission (FCC) for several quarters. Having evaluated this data, the Communications Division concurs with the FCC's finding that the call categorization data provided by the FCC is designed to identify call failures but is not designed to identify the location of a call failure in the path between call origination and termination. The data also show significant gaps between calls attempted and completed calls when totaling all calls made by all calling parties. But due to the limitation of the FCC call-categorization data, Communications Division reports that it is not able to explain the reasons why such gaps exist.

Communications Division suggests that there be a change in the kind of data requested from carriers which would seek information about a carrier's specific call paths and associated intermediate providers to pinpoint where in the process a call may be blocked. Accordingly, Communications Division agrees

with the FCC's August 15, 2018 *Rural Call Completion Order*⁴¹ that future efforts be focused on maintaining an information database tracking least-cost or intermediate providers and their associated performances levels, as published in that Order.

Party Comments

Joint Parties: Joint Parties assert that while Communications Division reports that it has received the FCC data, the data is limited and cannot explain why there are gaps between calls attempted and calls completed when totaling all calls made by all calling parties.⁴²

Discussion

Joint Parties' critique of the compliance summary is unpersuasive. While they complain that the data is limited and cannot explain why there are gaps between calls attempted and calls completed, Communications Division has pointed out that the FCC data is not designed to identify the locations of a call failure in the path and, as such, it is not able to explain why such gaps exist.

But Communications Division has gone further than simply explain why it cannot explain the gaps between call attempted and call completed. To better research this question, Communications Division recommends a change in the kind of data requested by seeking information about a carrier's specific call paths and associated intermediate providers to pinpoint where in the process a call may be blocked. Receipt of such data may help in the analysis to identify least cost routers that are blocking calls, and, ultimately, help develop conclusion about why calls are being blocked. Thus, Communications Division supports the

⁴¹ *In the Matter of Rural Call Completion*, WC Docket No. 13-39, (FCC 18-120) adopted August 13, 2018 and released on August 15, 2018.

⁴² Joint Parties' Opening Comments at 12.

FCC's recommendation that future efforts be focused on maintaining an information database tracking least-cost or intermediate providers and their associated performance levels, as proposed in the FCC's *Further Notice of Proposed Rulemaking*, Wireline Competition Bureau Docket No. 13-39.

Moreover, since Joint Parties filed and served their Opening Comments, the FCC has adopted additional measures to eliminate call failures. On March 15, 2019, the FCC adopted and released its *Fourth Report and Order* in Wireline Competition Bureau Docket No. 13-39, which adopted service quality standards designed to implement and improve the *Rural Call Quality and Reliability Act of 2017*. Specifically, the *Fourth Report and Order* did the following: (1) required intermediate providers to take steps reasonably calculated to ensure that any calls they handle are in fact completed; (2) when routing traffic is destined for rural areas, intermediate providers must actively monitor the performance of any directly contracted downstream intermediate providers and take steps to address any identified performance issues with that provider; and (3) intermediate providers must ensure that any additional intermediate providers to which they hand off calls are registered with the FCC.⁴³ By adopting these service quality standards, the FCC directed further engagement on the part of intermediate providers to track specific call paths, and to pinpoint and remedy where a call may be blocked or dropped.

Considering the information outlined above, we conclude that Commission Staff has complied with OP 1. In addition, the FCC's aforementioned rulemaking will address whether to seek information about a carrier's specific call paths and associated intermediate providers to pinpoint

⁴³ *Fourth Report and Order* at 5, 11, WC Docket No. 13-39.

where in the process a call may be blocked. This will enable the FCC to decide if any changes should be made to data requested.

2.2. OP 2

Respondents that experience call completion problems going forward shall submit an itemized report to the Communications Division on a quarterly basis beginning April 1, 2017, about call completion problems.

2.2.1. Compliance Summary, Party Comments, and Discussion

Communications Division reports that all respondents have complied with this OP. Records of call completion problems are on file with the Commission.

Party Comments

Joint Parties: With respect to content, Joint Parties complain that there is no explanation of how Communications Division verifies that the data accurately reflects the extent of this type of call completion problem, there is no clarification whether the respondent reports track with customer complaints, and there is no characterization of the information that has been submitted.⁴⁴ As for process, Joint Parties complain that there is no indication if any further steps are under consideration based on the content of the reports.

Discussion

We reject Joint Parties' content complaints regarding the compliance summary. Respondents (Kerman, Hybercube, AT&T, Comcast Phone California, Calaveras, Cal-Ore, Ducor, Foresthill, Happy Valley, Hornitos, Pinnacles, Ponderosa, Sierra, Siskiyou, Volcano, Winterhaven, Consolidated [surewest], Cox Communications, Charter FiberLink, Intrado, Time Warner Cable Info

⁴⁴ *Id.*, at 13.

Services, Frontier, and Verizon Business) have identified whether they had call completion problems. Those Respondents who did have call completion problems complied with OP 2's requirement to submit itemized reports utilizing the template that Communications Division provided, and identified the problems by date, company or customer name, date of call, originating number, number called, and a description of the problem in the manner in which Joint Parties complain. Communications Division staff sent reminder e-mails, as needed, to ensure that the quarterly reports were provided. Although there is no requirement in OP 2 that Communications Division verify that the data accurately reflects the extent of the call completion problems, it is certainly within Communications Division's purview to do so in the event it wishes to audit a respondent's records. Moreover, under Rule 1.1. of the Commission's Rules of Practice and Procedure, which provides that any person who transacts business with the Commission must "never mislead the Commission or its staff by an artifice or false statement of fact or law," Respondents are duly bound to provide accurate information to the Commission.

We also reject Joint Parties' process complaints. OP 2 does not require that Communications Division indicate if any further steps are under consideration based on the content of the reports. Nevertheless, as Communications Division has continuing oversight authority over the Respondents, it should make any further recommendations to the Commission or to the Respondents for handling call completion problems as it deems appropriate.

Considering the steps outlined above, we conclude that Respondents have complied with OP 2. Moreover, given that the FCC has ordered a process through in its *Fourth Report and Order* in the Wireline Competition Docket 13-39, which requires intermediate providers to implement steps to monitor call

processing, we find it unnecessary to continue to require respondents to provide a quarterly report itemizing call completion issues.

2.3. OP 3

We recommend that the Executive Director instruct the Commission's News and Outreach Office to determine the feasibility of developing and posting on the web and through brochures consumer information about rural call completion failure issues as discussed herein.

2.3.1. Compliance Summary, Party Comments, and Discussion

Communications Division reports a web link on the Commission's main web page has been available for consumers to enter call-completion problems since 2016 (<http://www.cpuc.ca.gov/CallCompletionSurvey/>). The CPUC encourages consumers to call or email its Consumer Affairs Branch (CAB) specifying the Public Safety Complaint⁴⁵ so that complaints can be tracked and resolved according to the CAB processes.

Party Comments

Joint Parties: Joint Parties argue that providing a web link on the Commission's main web page fails to address the requirements of (a) developing consumer education materials about rural call completion failure issues; (b) publishing the consumer education materials on rural call completion failures on the Commission's website and in brochures; continuing the Call Completion Survey; and (c) creating a consumer-friendly reporting tool and mobile phone application.⁴⁶

⁴⁵ Guidance for filing a Public Service Complaint is available on the CPUC's website at <http://www.cpuc.ca.gov/pubsafetycomplaint/>.

⁴⁶ Joint Parties' *Opening Comments* at 14.

Discussion

We reject Joint Parties' comments, in part, as they improperly impose obligations that go beyond the scope of OP 3. The Commission gave recommendations, rather than "requirements" as Joint Parties wrongly suggest, to the Executive Director to instruct the Commission's News and Outreach Office to determine how to implement consumer outreach regarding rural call completion failure issues.

Even though these were recommendations, the Executive Director and the News and Outreach Office adhered to the letter of OP 3. First, as the compliance summary notes, the News and Outreach Office developed an on line Call Completion Survey to determine how many responding consumers experienced any of the following eight call-completion issues: (1) phones sending false disconnected/out of service messages; (2) callers getting notices that the number dialed is no longer in service when the caller believes the number is in service; (3) phone service not accepting collect calls even though the consumer authorized the collect call; (4) consumers being unable to place a collect call to a phone number; (5) observing conditions with telephone facilities thought to pose a danger to safety or reliability of communications service; (6) inability to reach 9-1-1 operators; (7) experiencing dial tone outages where the consumer was unable to make a call; and (8) inability to reach 2-1-1 operators when called within a county that has enabled 2-1-1 service. The results of this Call Completion Survey were posted on line for any consumer to access.

Second, consumers with call-completion issues or other issues involving matters of public safety or service quality can go on line to fill out and submit an informal complaint with the Commission's Consumer Affairs Branch. In resolving an issue with a regulated utility, the Consumer Affairs Branch

identifies a three-step process for the consumer the follow: contacting the utility; contacting the Consumer Affairs Branch; and submitting a written complaint.

There is a section on the Commission's website entitled Brochures on CPUC Processes which provides helpful information and walks consumers through the available services that the Commission provides to help a consumer resolve an issue with a regulated utility.

Finally, in view of the consumer information that is available through the Commission's website, the Executive Director and the News and Outreach Office determined that it was not necessary to produce and provide duplicative hard-copy brochures of the options available to consumers for pursuing service quality and/or public safety informal complaints. The Consumer Affairs Branch can be reached, electronically, by mail, and via the CAB Hotline which is toll-free. The Consumer Affairs Branch representative can work with the consumer and contact the utility representative responsible for handling consumer complaints and assist with consumer throughout the process.

Considering the steps outlined above, we conclude that OP 3 has been complied with.

2.4. OP 4

We direct the Legal Division to prepare comments to the Federal Communications Commission (FCC) about the data gaps and inconsistencies in the FCC's Rural Call Completion Problems database. We direct the Communications Division to coordinate with the FCC Enforcement Bureau to seek improvements in the reporting, data gathering, and monitoring process for rural call completion.

2.4.1. Compliance Summary, Comments, and Discussion

The Commission's Legal Division submitted comments to the FCC on August 31, 2017, recommending that the FCC monitor rural call completion performance through intermediate service providers and hold those providers accountable for call failures. The CPUC provided insights based on staff's analysis of the call completion data and found that the California specific data was as inconclusive as the FCC's preliminary determination and recommended specific changes in the collection of such data. The FCC's action in this proceeding is described in the compliance to OP 1.

Party Comments

Joint Parties: Joint Parties argue that because the FCC reporting requirements are relatively new, it is unclear if the reporting requirements provide sufficient data for California to analyze discrepancies between the total number of call attempted versus calls completed, or whether the requirement that covered providers address problems with intermediate providers is sufficient to address service quality problems.⁴⁷ They suggest that Communications Division should continue to monitor reports from carriers about call completion problems in California, and verify whether or not the Commission receives customers complaints regarding problems resulting from problems with intermediate providers.⁴⁸ If there are demonstrated problems within California, Joint Parties suggest that this could be a sign that the FCC's measures are inadequate.⁴⁹

⁴⁷ Joint Parties' *Opening Comments* at 14.

⁴⁸ *Id.*

⁴⁹ *Id.*

Discussion

While we appreciate Joint Parties' concerns, they do not lead to the conclusion that the Commission's Legal Division and Communications Division have failed to comply with OP 4. In fact, just the opposite is true. Joint Parties do not dispute that the Legal Division communicated with the FCC on August 31, 2017 and provided recommendations for adopting new rules to cover service providers. Instead, Joint Parties question whether the FCC's new reporting requirements will provide enough data to the Commission to analyze discrepancies between the total number of calls attempted versus calls completed, or whether the requirement that covered providers address problems with intermediate providers is enough to address service quality problems. Yet we believe that as the FCC provides new information to the Commission, Legal Division and Communications Division will be able to evaluate, as part of their ongoing authority, the usefulness of the data and determine if any additional data fields will be needed for the Commission to identify and resolve call completion and/or service quality issues.

For all the foregoing reasons, we conclude that the Commission's Legal Division and Communications Division has complied with OP 4.

2.5. OP 5

Within thirty days from the issuance of this decision, we direct Respondents to commence educating their Multi-line Telephone System customers about steps to enable short code access.

2.5.1. Compliance Summary, Comments, and Discussion

Communications Division reports that all respondents have complied with OP 5 and that the compliance letters are on file. In general, respondents have been communicating with their customers about available options for short code

dialing, and implementing them as requested. Regarding 9-1-1 short code access, many of the carriers include the CPUC's brochure on MLTS in their communications with their customers.⁵⁰ The CPUC has been supportive of the FCC's work on MLTS issues in emergency situations, and has participated in the FCC's proceeding *In the Matter of: Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communication Systems (PS-Docket 17-239)*.

Party Comments

Joint Parties: Joint Parties argue that saying the compliance letters are on file is insufficient. Instead, they want the Commission to state, definitively, that all Respondents have communicated short code access to their MLTS customers.⁵¹

Discussion

We reject Joint Parties reading of the OP 5 compliance summary. In addition to stating that the compliance letters are on file, the compliance summary states that "respondents have been communicating with their customers about available options for short code dialing, and implementing them as requested. Regarding 9-1-1 short code access, many of the carriers include the CPUC's brochure on MLTS in their communications with their customers."

For all the foregoing reasons, we conclude that Respondents have complied with OP 5.

⁵⁰ <http://www.cpuc.ca.gov/general.aspx?id=3746> (site last visited October 11, 2018).

⁵¹ Joint Parties' *Opening Comments* at 17.

2.6. OP 6

Within 30 days from the issuance of this decision, we order Respondents who program Multi-line Telephone System (MLTS) systems to commence such programming on behalf of their customer or provide MTLS systems (whether premise, cloud, or centrex-based) to enable short codes, with an opt-out for customers for short codes except for 9-1-1, 8-1-1, 2-1-1, and 7-1-1 in light of the public safety and health services available upon reaching these short codes. Carriers shall maintain the proper underlying call directions to complete the call to the proper agency or short code destination.

2.6.1. Compliance Summary, Comments, and Discussion

Communications Division reports that all respondents have complied with this OP and that the compliance letters are on file.

Party Comments

Joint Parties: Joint Parties claim the compliance response is inadequate because it fails to provide any information on the content of the compliance letters, nor does it make the letters available to the parties for review.⁵²

Additionally, they claim that there is no indication whether Respondents have provided sufficient call directions that customers can use to ensure ongoing connectivity.⁵³

Discussion

We view Joint Parties' comments as less of an objection and more of a request for a fuller explanation of the compliance. As such, we will summarize

⁵² *Id.*

⁵³ *Id.*, at 18.

the information in the compliance letters to demonstrate that Respondents have satisfied OP 6's directive.

Respondent	Compliance with OP 6
AT&T	AT&T states that where it has programmed MLTS services at the customer's request to block N11 access, AT&T has identified and removed N11 blocking and notified customers of the removal.
Calaveras Telephone Company	Calaveras states its network is fully capable of completing calls to short code access numbers. Calaveras does not sell or maintain Private Branch Exchange (PBX) equipment. But subscribers with PBX equipment who may need such programming assistance will be referred to their PBX vendor for assistance.
Bright House Networks Information Services	Bright House has enabled short code dialing for all its IP-PBX customers.
Comcast	For Comcast-owned PBX equipment, Comcast programs that equipment to enable N11 dialing and associated routing for those numbers. Comcast prepared a bill insert regarding short code dialing and created a web page with information for business voice short code dialing. Comcast has also informed California Utilities Emergency Association, Regional Emergency Services Coordinators, and 2-1-1 California of these education efforts.
Cox California Telcom	Cox offers a managed service to some of its MLTS customers. Cox confirm that the managed equipment Cox

	provides is installed to enable short code dialing by customers subscribed to outbound dialing services, including 9-1-1, 8-1-1, 2-1-1, and 7-1-1.
Ducor Telephone Company	Since Ducor does not sell or maintain PBX equipment, it does not program or service Private Branch Exchange (PBX) equipment.
Frontier Communications	Frontier-installed PBX/MLTS systems are programmed based on customer preferences.
Kerman and Foresthill Telephone Company	Short codes have been set up where an underlying entity exists for call completion. Subscribers with PBX equipment who may need programming assistance to enable short code access is referred to their PBX vendor.
Sierra Telephone	Sierra does not sell or service MLTS systems. Its network can complete calls to short codes.
Siskiyou Telephone	Siskiyou can complete calls to short code access numbers although it does not sell or maintain PBX equipment and does not program or service PBX equipment. Subscribers with PBX equipment who need programming assistance are referred to their PBX vendor.
Happy Valley, Hornitos, and Winterhaven Telephone Companies d/b/a TDS Telecom	Network services personnel tested all MLTS customer lines and verified that N11 dialing has been implemented and continues to be available.
MCImetro Access Transmission Services Corp d/b/a Verizon Access Transmission Services (MCI)	This OP is not applicable since MCI does not have any MLTS customers.

Volcano Telephone Company	Although Volcano can complete calls to short code access numbers, it does not sell or maintain PBX equipment. Subscribers with PBX equipment who need programming assistance to enable short code access are referred to their PBX vendor.
West Safety Communications (West)	West does not have any dial-tone or MLTS customers in California, nor does it program MLTS systems.
West Telecom Services (WT)	WT does not have any dial-tone or MLTS customers in California, nor does it program MLTS systems.

For all the foregoing reasons, we conclude that the carriers have complied with OP 6.

2.7. OP 7

By the end of the first quarter of 2017, Respondents shall hold a meet and confer with the 2-1-1 coalition and the 8-1-1 coalition, as described herein to discuss short code access and education.

2.7.1. Compliance Summary, Comments, and Discussion

The respondents held a meet-and-confer on June 13, 2017. The topics included a meet-and-confer with the 2-1-1, 7-1-1, and 8-1-1 Coalitions; a meet-and-confer with the California Federally Recognized Tribal Emergency Contacts and County Office of Emergency Services (pursuant to OP 15); and a discussion regarding distribution of emergency contact information (pursuant to OP 16).

Party Comments

Joint Parties: Joint Parties allege that Respondents' actions toward compliance have been insufficient. They claim it is unclear how the meeting was

noticed, whether Respondents actively participated, and if Respondents made commitments to meet the needs of the approximately 50 different 211 programs throughout California to ensure that county residents have access to this service.⁵⁴ Joint Parties request that the Commission provide stakeholders with more detail of the work done to date to satisfy the requirements in D.16-12-066.

Discussion

We reject Joint Parties' attempt to require the disclosure of information not required by OP 7, which ordered the Respondents to hold a meet and confer with the 2-1-1 and 9-1-1 coalitions to discuss short code access and education. The meeting was held on June 13, 2017. Although there is no requirement to explain how the meeting was noticed, the level of participation by the Respondents, and what commitments the Respondents made to the different 2-1-1 programs throughout California, the Commission can provide these additional details regarding the content of the meeting as it pertained to OP 7. The meeting was attended either in person or telephonically by representatives from AT&T, Calaveras Telephone, CalOES, Comcast, Consolidated Communications CA & Small LECs. Frontier, Yolo County Health and Human Services Agency, 2-1-1 California, 2-1-1 Sacramento, 8-1-1, Agua Caliente Band of Cahuilla Indians, CARCGA (California Regional Common Ground Alliance), Cox, Eden I&R (2-1-1), Glenn County Sheriff's Office, Lake County Sheriff's Office, Ponderosa Telephone, Sacramento Municipal Utility District, Sierra Telephone, Southern California Edison, TDS Telecom, Tuolumne Band of Me-Wuk Indians, Ventura County Sheriff's Office, and Verizon.

⁵⁴ Joint Parties' *Opening Comments* at 18.

Representatives from the 2-1-1 Coalition spoke and explained that it maintains a website (as do most of the 38 counties that provide 2-1-1 service) which includes information about circumstances in which 2-1-1 calls are not completed, and about programming of MLTS equipment. The 2-1-1 Coalition advocates to businesses and other entities with MLTS equipment to permit 2-1-1 calls, when instances of 2-1-1 blocking are brought to their attention. Finally, the 2-1-1 Coalition stated it is expanding 2-1-1 service to the 20 remaining unserved counties in California within the next 2-5 years.

Members from the 8-1-1 Coalition were also in attendance. Although they felt that 8-1-1 service was working well, the 8-1-1 Coalition did acknowledge that access to 8-1-1 calls from public locations with MLTS equipment (such as hotels) frequently did not allow 8-1-1 calls. The 2-1-1 Coalition offered to forward its website information to the 8-1-1 Coalition for its possible reference and use.

For all the foregoing reasons, we conclude that the Respondents have complied with OP 7.

2.8. OP 8

We refer to the Commission's implementation of Senate Bill 1212 to bring 2-1-1 statewide to determine whether additional steps are prudent and necessary to ensure 2-1-1 access, including from Multi-line Telephone System users.

2.8.1. Compliance Summary, Comments, and Discussion

Communications Division has been working to implement SB 1212 by working with 2-1-1 agencies and counties to help close the service gaps in coverage, and is looking into whether additional steps are prudent and necessary. The CPUC intends to utilize the authority granted by SB 1212 to efficiently and effectively implement 2-1-1 services for communities to use

during disasters. The CPUC has collaborated with unserved counties and 2-1-1 service providers to understand the needs and circumstances of the counties through conference calls and workshops. The CPUC seeks to facilitate an implementation plan for counties currently without 2-1-1 service.

No party has opposed the compliance summary.

The Commission concludes that Communications Division has complied with OP 8.

2.9. OP 9

We refer to the Network Study of AT&T California and Frontier Communications we ordered in Decision 15-08-041, in Rulemaking 11-12-001, the record of this proceeding relevant to the existing scope of that study. The scope of that study was ordered to include network facilities and policies regarding the operation of their networks in the state, and how those factors might contribute to outages and poor call quality.

2.9.1. Compliance Summary, Comments, and Discussion

Communications Division reports that it has complied with this Ordering Paragraph. The examination of the network condition, facilities, policies, practices and procedures of AT&T and Frontier (former Verizon Territories) is underway, with a final report expected in 2019.

Party Comments

Joint Parties: Joint Parties state that they look forward to analyzing the linkages made between these two dockets as a result of the upcoming incorporation of the study into the record of this proceeding.⁵⁵ They further ask that when the final results of the Network Study are published, the Commission

⁵⁵ Joint Parties' *Opening Comments* at 19.

should commit to reviewing those results in this proceeding and allow the Network Study to inform further work in a Phase 2.⁵⁶

Discussion

While Joint Parties filed and served comments, they did not object to the compliance summary.

The Commission will alert the parties when this report will be released to the public and will consider how it should inform current or future proceedings

The Commission concludes that Communications Division has complied with OP 9.

2.10. OP 10

By the end of the first quarter of 2017, we recommend that the Executive Director direct the Commission Consumer Affairs Branch (CAB), in coordination with the News and Outreach Office to reach out to organizations that represent consumers who spoke at the public PPH about service outages and public safety issues, as feasible, and provide information on CAB's informal complaint resolution services, and inform them about the formal complaint process at the Commission, when feasible. These organizations should include but are not limited to local governments, tribal authorities and law enforcement that were in attendance at the PPHs, as feasible.

2.10.1. Compliance Summary, Comments, and Discussion

The Commission's Consumer Affairs Branch routinely provides this information at Commission sponsored PPHs, and encourages the public to provide feedback about their communication service.

Party Comments

⁵⁶ *Id.*

Joint Parties: Joint Parties claim this response is inadequate. In their view, there is no indication that CAB has fulfilled the requirement to contact organizations that specifically represent the interests of the consumers who spoke at the PPHs in this proceeding.⁵⁷ Additionally, Joint Parties claim that the Commission has not followed up on any ongoing problems that CAB identified after discussion with these organizations and consumers.⁵⁸ They ask that CAB make an attempt to contact organizations in those areas to follow up on issues raised during the PPHs.

Discussion

Joint Parties objection is not well taken. OP 10 recommended that the Executive Director direct CAB, in coordination with the Commission's News and Outreach Office, to reach out to organizations representing consumers who spoke at the PPHs about the Commission's informal and formal complaint processes. As pointed out in the Discussion of OP 3, CAB has published online information regarding the informal and formal complaint processes that are available to all ratepayers and interested groups, including those representative groups that spoke at the PPHs regarding call-completion concerns.

Additionally, CAB was present at each of the nine PPHs in this proceeding that were held in San Andreas, Ukiah, Happy Camp, Eureka, Guerneville, Middletown, Santa Cruz, Long Beach, and Visalia. CAB had hard copy and electronic link information for any PPH participant who wanted additional information regarding the Commission's informal and formal complaint processes. And this information continues to be available on the Commission's

⁵⁷ *Id.*

⁵⁸ *Id.*

website. Considering this public outreach, it was not necessary for CAB to undertake additional outreach efforts to organizations representing consumers who spoke at the PPHs about the Commission's informal and formal complaint processes.

Finally, the CPUC's outreach liaisons meet with local governments and other stakeholders regularly. As part of that outreach they discuss multiple telecommunication issues, such as broadband/universal service, LifeLine, CTF, and DDTP. The liaisons share information about the CPUC's telcom programs and listen to telcom concerns or needs that stakeholders have encountered. The issues raised by stakeholders have included including poor telcom service, carrier of last resort issues, pole issues, lack of broadband service, concerns about service outages during emergencies, and customers not receiving backup battery notification.

The Commission concludes that CAB complied with OP 10.

2.11. OP 11

We direct the telecommunication companies to evaluate the practice of attaching facilities to trees and report back to the Commission by March 1, 2017. The report shall include, at a minimum, the following information:

- Number of trees that have telecommunication facilities attached to them;
- Evaluation of risk posed by the attachments to trees, including impacts on service outages, reliability, and safety;
- Description of practices adopted by the company to ensure that the trees carrying telecommunication facilities are not hazardous, diseased or dying, or near other trees that are diseased or dying as pests can move from tree to tree; and

- Estimate of cost to move facilities from trees onto poles.

2.11.1.Compliance Summary, Party Comments, and Discussion

Communications Division reports that all respondents have complied with this OP and that the compliance letters are on file.

Party Comments

Joint Parties: Joint Parties criticizes the summary on the basis that there is no discussion about the extent of the practice of attaching telecommunication facilities to trees, as well as no procedural information on how Respondents provided the information to Commission.⁵⁹ Joint Parties also question how thorough and accurate the information Respondents provided to staff.⁶⁰ Because of the information that members of the public and ILEC employees provided during the PPHs and in comments, Joint Parties believe there are likely many locations in rural where telecommunications facilities are attached to trees.⁶¹

Discussion

The Commission provides the following additional information regarding OP 11:

- a. Number of trees that have telecommunication facilities attached to them:

The following telecommunication companies stated that they do not have any telecommunications facilities attached to trees: Calaveras Telephone Company; Cal-Ore Telephone Company; Consolidated Communications of California; Cox Communications; Ducor Telephone Company;

⁵⁹ *Id.*, at 21.

⁶⁰ *Id.*

⁶¹ *Id.*

Electric Lightware; Pinacles Telephone Co.; Happy Valley, Hornitos, and Winterhaven Telephone Companies d/b/a Telecom; MCI; Sebastian; Volcano Communications Group; and West Telecom Services.

The following telecommunication companies have identified a total of 3,630 telecommunications facilities attached to trees: AT&T; Charter Fiberlink, Time Warner Cable Information Services, and Bright House Networks Information Services; Comcast; Frontier Communications; Ponderosa Telephone Co.; Sierra Telephone; and Siskiyou Telephone.

- b. Evaluation of risk posed by the attachments to trees, including impacts on service outages, reliability, and safety.

Telecommunication companies with attachments to trees stated that they evaluate tree attachments in the same manner as pole attachments with respect to service, reliability, and safety, with compliance with the applicable tree trimming/clearance provisions from GO 95. For example, one telecommunication company characterized its tree attachments as drops as opposed to strand/cable and, as such, service, reliability, and safety risks are minimal. Another telecommunication company stated that its attachments pose very little risk to service, reliability, and safety as a result of the nature of the trees where the attachments occur.

- c. Description of practices adopted by the company to ensure that the trees carrying telecommunications facilities are not hazardous, diseased or dying, or near other trees that are diseased or dying as pests can move from tree to tree.

While the practices vary slightly between the telecommunications companies with pole attachments, they all endeavor to ensure that the trees are not hazardous. One telecommunications company stated that inspections are

conducted pursuant to GO 96, Rule 80. For each tree attachment, a photo is taken and as needed, the company will work with agencies identified in then Governor Brown's October 30, 2015 proclamation of state of emergency regarding areas where trees need to be removed. Other telecommunications companies stated that if during their routine inspections they discover a hazardous or dying tree, they will either report the incident to their Operations Manager for further curative action, or work with the electric utilities to install new poles as trees fail. Stand/cable tree attachments are referred to pole placement consideration. Drop attachments are either re-routed or referred for placement consideration. Finally, one telecommunications company stated that each tree containing an aerial cable attachment is isolated and not next to any other tree containing an aerial cable attachment. Its inspection of the trees with attachments reveals that none of the trees are hazardous, diseased, or dying. This telecommunications company went on to state that it has planned upgrades to convert aerial cable to underground cable in conduit.

d. Estimate of cost to move facilities from trees onto poles.

The telecommunications companies report that the cost to move facilities from trees to poles will vary with each location. Costs may be driven by permitting expenses, need to obtain permission tree removal costs, tree trimming costs, trenching costs, types of soil, whether holes need to be drilled in rock, and the costs of gaining adequate access for heavy equipment which may require the removal of additional trees to clear paths. As a result of these variables, the telecommunications companies have provided cost estimates that range between a low of \$1,900 to a high of \$550,000, with estimates being provided on a per pole basis or on an entire project basis.

The Commission concludes that the respondents have complied with OP 11.

2.12. OP 12

The report shall be submitted to the Commission's Executive Director, Deputy Executive Director for Safety and Consumer Protection and the Directors of Communication Division, Safety Division and Energy Division.

2.12.1.Compliance Summary, Comments, and Discussion

Communications Division reports that the information has been distributed as directed.

Party Comments

Joint Parties: Joint Parties state that stakeholders need more information about the data required to be collected, as well as an explanation of how it was verified by staff, along with a staff analysis of the impact of these practices.⁶²

⁶² *Id.*, at 22.

Discussion

With the additional information provided regarding OP 11, the Commission believes that Joint Parties' concerns about the data collected have been addressed. As for the remaining concerns, OP 12 does not require Communications Division to verify the information provided by the telecommunications companies or to provide a staff analysis of the impact on these practices. Of course, if it deems appropriate, the Commission can order Communications Division to provide such information later.

The Commission concludes Communications Division has complied with OP 12.

2.13. OP 13

By the end of the third quarter of 2017, the Commission's Consumer Protection and Enforcement Division (CPED) shall analyze as described herein whether an adjudicatory Order Instituting Investigation should be brought for any violations of state law or this Commission's rules, orders, and Decisions arising from: 1) the April 9, 2014 outage started by Intrado's systems in Colorado that led to the loss of 9-1-1 access in several states including in eight Northern California counties where Verizon Business supplied 9-1-1 access services to AT&T Mobility and Verizon, Wireless customers; 2) the outages resulting from fiber cuts in Mendocino and Humboldt counties including the August 3, 2014, outage, the September 3, 2015, outage, and the December 9, 2015, outage, each of which resulted in the loss of dial tone and in several cases 9-1-1 access for thousands in one or several counties; 3) the outages following the Verizon-Frontier transition in April-May 2016. CPED shall have access to all of the relevant record from this proceeding for its analysis of these issues.

2.13.1.Compliance Summary, Party Comments, and Discussion

Communications Division has provided the Commission's CPED staff with the information required by OP 13.

Party Comments

PAO: PAO states that OP 13 obligates CPED to issue a recommendation as to whether the Commission should open an OII, which CPED has not issued.⁶³ Per PAO, CPED staff should inform the parties of its recommendation on whether the Commission should open an OII to investigate one or more of the above listed outages.

Joint Parties: Joint Parties complain that stakeholders have not been appraised of the results of the analysis.⁶⁴

Discussion

After consulting with the Commission's Communications Division, CPED decided not to institute an OII for the incidents that are the subject of OP 13. But the Commission rejects PAO's and Joint Parties' comments to the extent they are inquiring into the reasons for, or the analysis leading up to, the determinations by the Commission's Communications Division and or CPED since to reveal the reasons and or analysis would run afoul of the deliberative process privilege. (*See Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1339-1342.) This privilege protects the recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the evaluation, analysis, or personal opinions of the writers rather than the policy of the agency. (*See National Wildlife Federal v. U.S. forest Service* (9th Cir. 1988) 861 F.2d 1114, 1119;

⁶³ *Id.*, at 2.

⁶⁴ *Id.*, at 25.

Dudman Communications v. Department of Air Force (D.C. Cir 1987) 815 F.2d 1565, 1568; and *Coastal States v. Department of Energy* (D.C. Cir. 1980) 617 F.2d 854, 866.)

To invoke the deliberative process privilege, a two-part test must be satisfied. First, the information sought to be exempted from disclosure must be predecisional, *i.e.* that the reasons, analysis or evaluation contributed to an agency decision. (*NLRB v. Sears, Roebuck & Co* (1975) 421 U.S. 132, 151-154.) Second, the information sought to be exempted from disclosure must be part of some deliberative process. (*Id.*, at 151, footnote 18.)

The rationale, reasoning, analysis, opinions or explorations leading up to or explaining the decision not to institute an OII satisfy the two-part test. Communications Division's actions were predecisional as they contributed to CPED's decision whether to institute an OII. Communications' Division's actions were also part of the deliberative process that lead to CPED's decision. The deliberative process privilege would also protect the disclosure of the reasons underlying CPED's decision not to institute an OII. To hold otherwise would require the disclosure of advice, recommendations, opinions, and other material reflecting CPED's deliberative or policymaking processes, which the deliberative process privilege is intended to protect from disclosure. Accordingly, the Commission will not disclose either Communications Division's or CPED's reasons or rationales for leading up to the conclusion not to open an OII regarding the incidents that are the subject of OP 13.

The Commission concludes that Communications Division and CPED have complied with OP 13.

2.14. OP 14

We direct Legal Division to comment to the FCC on behalf of the Commission concerning the adequacy of the NORS reporting for the August 3, 2014, September 3, 2015, and December 9, 2015, outages in Mendocino, Humboldt, and Del Norte Counties. The comment should urge the FCC to evaluate and determine whether voice outages that resulted from Optical Carrier 3 (OC3) or transport outages were adequately reported, including the loss of end-to-end 9-1-1 service for hundreds or thousands of downstream customers affected by the OC3 or transport outage.

2.14.1. Compliance Summary, Comments, and Discussion

Commission staff have complied with this OP. Staff performed an analysis of the Mendocino, Humboldt, and Del Norte outages to gauge the effectiveness and adequacy of the FCC's major service interruption reporting requirement thresholds, measuring their correlation with the service quality data submitted to the Commission per the Commission's GO 133. After completing their analysis, staff determined that it was appropriate to not file comments at the FCC regarding these outages.

Party Comments

Joint Parties: Joint Parties request a full explanation regarding the decision not to file comments with the FCC.⁶⁵ Since Joint Parties assert that the outages addressed in OP 14 impacted thousands of customers, cut off access to 911 service, and hindered the ability of first responders to coordinate activities and receive and respond to calls, they believe that the Commission should release a public version of the staff analysis and provide an explanation

⁶⁵ *Id.*, at 23.

regarding why staff determined it was unnecessary to provide information to the FCC about its findings.

Discussion

While the Commission will not authorize the release of a public version of the staff report since it is confidential, the Commission will provide the following summary. Communications Division Staff analyzed GO 133, Section 4's (Major Service Interruptions)⁶⁶ reporting criteria to determine whether information about outages correlates with outage duration data provided pursuant to GO 133, Section 3.4 (Out of Service Repair Interval).⁶⁷ Communications Division Staff next compiled data provided to the Commission pursuant to GO 133, Section 4, relating to the August 3, 2014, September 3, 2015, and December 9, 2015 outages in Mendocino, Humboldt, and Del Norte Counties, and then compared that data to Out of Service Repair Interval data received from carriers' quarterly reports, per GO 133, Section 3.4, on the day of each outage event, and for several additional days.

In its conclusion, Communications Division Staff states it found a correlation between the data received per its major service interruption reporting requirements for three major outage events in Mendocino, Humboldt, and Del Norte Counties (data set one), with the quarterly outage duration data submitted pursuant to GO 133, Section 3.4 (data set two) because carriers submitted timely major service interruption reports and quarterly outage duration data for each

⁶⁶ GO 133, Section 4, adopted the FCC's protocols and reporting thresholds for major service interruption reporting specified in 47 C.F.R. Part 4. Telecommunications carriers are required to report service outages meeting specific criteria to the Commission at the same time they report to the FCC.

⁶⁷ GO 133, Section 3.4, requires telecommunications carriers to report Out of Service Repair Interval data on a quarterly basis.

event. But Communications Division Staff asserts that these two data sets vary widely in scope. Major service interruption report requirements defined in GO 133, Section 4, apply to TDM (Division Multiplexing, or traditional phone service), cable, and VoIP outages. Out of Service Repair Interval reporting requirements defined in GO 133, Section 3.4, apply only to TDM outages. Communications Division Staff did not advise the FCC on this finding both because the comparison is incomplete, and because major service interruption data submitted to the Commission and to the FCC differ in scope from the outage duration data because it applies to different service platforms.

These conclusions were relayed to Legal Division and Legal Division concurred.

The Commission concludes that Legal Division has complied with OP 14.

2.15. OP 15

By June 30, 2017, Respondents shall meet and confer with California's federally-recognized tribes and County Office of Emergency Services offices to determine if action is needed to make residential addresses visible to the 9-1-1 database, including assigning a unique address by mutual agreement in areas where all households currently have the same address.

2.15.1.Compliance Summary, Comments, and Discussion

Please refer to the Compliance Summary for OP 7. In addition, Tribal representatives who attended this meeting found their outreach and communications with local Office of Emergency Services (OES) officials helpful in continuing the vital work of determining addresses, and encouraged local officials to contact the tribal authorities in their areas.

Party Comments

Joint Parties: Joint Parties ask that staff be required to provide an update on the actual stats of addressing the issue of residential addresses that are not visible in 9-1-1- databases.⁶⁸

Discussion

The Commission rejects Joint Parties' request because it is beyond the scope of what OP 15 requires. But if Communications Division becomes aware of updated information, it can work with either CAB or News and Outreach regarding how best to make additional information available.

The Commission concludes that respondents have complied with OP 15.

2.16. OP 16

Respondents shall provide within 30 days of this Decision to city, county, and federally recognized tribal Office of Emergency Services officials an emergency contact name and number available 24 hours a day, seven days a week, that is not a general public 800 or 8xx number.

2.16.1. Compliance Summary, Comments, and Discussion

Communications Division reports that at the June 13, 2017 meeting, industry participants agreed to provide such a number to the AT&T representative, who would provide that number to the State Warning Center at the Cal OES. Further, the California Utility Emergency Association representative provided a list of city, county, and federally recognized tribes to the carriers attending so that the carriers could distribute the telephone number. The carriers expressed concern that such a number should be used by the local

⁶⁸ *Id.*, at 24.

officials for emergency communications purposes only, and should not interfere with procedures already in place with Cal OES.

Party Comments

Joint Parties: Joint Parties claim that the summary is insufficient because it references what they term an “inadequate meet and confer process.”⁶⁹ They ask that staff should provide parties with a report indicating the extent to which contact numbers have been distributed.

Discussion

The Commission rejects both Joint Parties’ characterization of the meet and confer process, and the request that Communications Division Staff be ordered to prepare additional reporting. The request that “a report indicating the extent to which contact numbers have been distributed” is beyond the scope of OP 16. If Communications Division becomes privy to the extent to which contact numbers have been distributed, it can consult with Cal OES to determine if any further dissemination of this information is needed.

The Commission concludes that respondents have complied with OP 16.

2.17. OP 17

By June 30, 2017, the Communications Division and the Safety and Enforcement Division shall request a meet and confer with the Cal OES to discuss communications during and after emergencies such as fires and means to shorten the time for accessible communications, and discuss appropriate next steps.

⁶⁹ *Id.*, at 25.

2.17.1.Compliance Summary, Comments, and Discussion

The Commission's Safety and Enforcement Division (SED) conferred with Cal OES to collaborate on improving communication during emergencies on multiple fronts. This includes the proceeding to Examine Electric Utility De-Energization of Power Lines in Dangerous Conditions (R.18-12-005) and the proceeding Regarding Emergency Disaster Relief Program (R.18-03-001).

Party Comments

Joint Parties: Joint Parties claim the summary is deficient as stakeholders have not been apprised of the status, content, or outcome of these meetings.⁷⁰

Discussion

The Commission rejects Joint Parties' comments since apprising stakeholders of the status, content, or outcome of the meet and confer with the Cal OES is beyond the scope of OP 17. Communications Division and Safety and Enforcement Division Staff continue to collaborate with Cal OES on multiple informal and formal fronts, including in the context of proceedings such as R-18-12-005 and R-18-03-011, they may update stakeholders, as needed, in the future.

The Commission concludes that Communications Division and SED have complied with OP 17.

2.18. OP 18

By June 30, 2017, the Safety and Enforcement Division shall request and coordinate a meet and confer with Cal OES, respondents, the California Utility Emergency Association, the California Communications Association, Cal-Fire, the Governor's Tree Mortality Task Force, the Governor's Office of Tribal Advisor, Emergency Services representatives for federally-recognizes tribes in California, County OES

⁷⁰ *Id.*

representatives, and Communications Division to discuss options to improve speed of access to communications services during emergencies such as large-scale fires, and recommend appropriate next steps for this Commission to speed communications services during emergencies to protect public safety, the environment, resources, and property including private, public, and utility property and infrastructure.

2.18.1.Compliance Summary, Comments, and Discussion

The Commission conducted a workshop with Cal OES regarding OP 22 that adequately addressed the concerns raised by OP 18. As noted, the Commission and Cal OES are continuing to collaborate to improve communication during emergencies on multiple fronts.

Party Comments

Joint Parties: Joint Parties claim the summary is deficient as stakeholders have not been apprised of the status, content, or outcome of these meetings.⁷¹

Discussion

The Commission provides additional information regarding the workshop. Commission Staff hosted a Working Group meeting on July 24, 2017. It is worth noting that since this workshop, there has been intensive, ongoing collaboration between SED, Cal OES, Cal Fire and other emergency responders to improve communications during emergencies, including wildfires.

Representatives from Communications Division, Safety and Enforcement Division, Cal OES, the California Utilities Emergency Association (CUEA), local authority representatives, AT&T, Verizon, Frontier, Sierra, Cox, Consolidated, and T-Mobile attended. Officials from the tribal associations were invited but

⁷¹ *Id.*

did not attend. In order to understand the speed of access in emergencies and whether any next steps to improve communications were needed, Commission Staff asked questions about the following:

- The flow of information between consumers, communications service carriers, and emergency response agencies;
- Disruptions to telecommunications services;
- How carriers are notified about outages in their network territories;
- How carriers determine the breadth and scope of these outage events;
- How carriers and emergency responders coordinate with local agencies and each other during emergencies; and
- Whether current practices are effective.

a. State Agency Input

The representatives from state agencies described existing outage reporting practices as being voluntary, and identified problems in receiving information about wireless and Voice Over Internet Protocol outages, resulting in a data gap. Cal OES staffs the California State Warning Center, a central information hub for statewide emergency communications and notifications which operates on a 24/7 basis. The State Warning Center is responsible for incident management, as well as for communicating with and updating local authorities with emergency information. CUEA Staff explained that carriers voluntarily notify them about outages through a direct communications line, as well as through web-based reporting. CUEA then acts as a facilitator, unifying parties in order to address situations. They describe the notification process as working well with CUEA being notified about approximately 95% of outages. Neither Cal OES nor CUEA utilize any specific outage notification thresholds,

such as durations and or use minutes affected. CUEA receives FCC outage information from carriers through an agreement with the Department of Homeland Security. Cal OES is notified about outages to public safety answering point, but not access network outages.

b. Local Authority Input

The representative from the Mendocino County Sheriff's Department explained that in addition to notifications from the California State Warning Center, they often learn about outages from residents and/or fire departments, rather than from service providers. Notification by residents make take 1-2 days, with wireless outages being particularly difficult to identify. Notification is accomplished through email or text, and may not be noticed quickly. Overall, Mendocino Sheriff's Department prefers a direct method of outage notification, such as calls from agency officers or public safety answering points. Mendocino County's representative argued in favor of lowering the outage reporting threshold from 900,000 user minutes to 90,000 user minutes because the current 900,000 user minutes threshold does not effectively represent Mendocino County due to its low population density.

The representative from the Lake County Sheriff's Department described a situation similar to that in Mendocino and agreed that a more direct notification method is needed.

c. Telecommunications Carriers' Input

Representatives from AT&T, Frontier, Verizon, and the smaller LECs explained their internal protocols for identifying issues and diverting resources to address them. Overall, they recommended an industry-developed approach towards outage notification, and advocated leveraging existing processes towards closing the information gap about wireless and VoIP outages. AT&T's

representative argued that the Commission was acting too quickly to define outage reporting thresholds for service providers and, instead, suggested that the Commission explore all the options available to address the data-gap issue.

Verizon's representative pointed out that since outages vary widely in nature, and that the information about them is discovered in different ways, this affects what carriers can disclose and how quickly. Frontier's representative suggested utilizing California's existing warning systems but cautioned about situations with too many parties required to contact one another rapidly. T-Mobile's representative spoke in favor of more information sharing with the Commission and other utilities.

d. Commission Staff

Commission Staff encouraged local authorities to work with Cal OES to ensure that they receive outage information from the California State Warning Center as required. Commission Staff recommended that Cal OES coordinate with Mendocino and Lake County officials to ensure that the counties are receiving notifications about outages and emergencies of all kinds. Cal OES has continued to strengthen their communications with local Offices of Emergency Services.

The Commission concludes that SED has complied with OP 18.

2.19. OP 19

Communications Division shall make available a format for reporting outages in response to Commission data requests and Commission Decisions.

2.19.1.Compliance Summary

Communications Division reports that it has complied with this OP through its work on OP 20.

The Commission concludes that Communications Division has complied with OP 19.

2.20. OP 20

We direct Communications Division to issue standing data requests to all respondents to report to this Commission outages of 90,000 user minutes that last 30 minutes or more, and the number of user minutes affected by an Optical Carrier 3 (OC3) or transport outage. We authorize Communications Division to adjust the data request threshold between 90,000--900,000 user minutes.

2.20.1.Compliance Summary, Comments, and Discussion

Communications Division reports it has complied with this OP. As part of that compliance, Communications Division completed an analysis that compared the 90,000 and 900,000 user minute thresholds for two one-week periods in 2016. Staff found that changing the threshold for reporting did not provide sufficient information about the location of the outages to make a determination about their effect on rural areas. Although the volume of reported outages increased significantly, the useful data about what areas were impacted did not significantly increase. Therefore, Staff did not find it necessary to recommend a change to the current reporting threshold in GO 133.

Party Comments

PAO: PAO states that Communication Division Staff's determination regarding the threshold change was based on a four percent sample rate, and that the sample size of only two one-week periods out of the year is too small a sample.⁷² Instead, PAO wants Communications Division to evaluate the information over a longer, contiguous period time, which it believes will increase the sample size and provide for a more representative conclusion.⁷³ PAO also wants Communications Division to examine outages at the 90,000 user minute threshold in both a winter month and a summer month to obtain a larger sample size that should control for seasonal outage variations.

Additionally, PAO claims that the compliance summary failed to explain why the change in the reporting threshold did not provide staff sufficient information about the location of rural outages.⁷⁴ According to PAO, since geographic information is a data field in NORS reports and would be included in the outage reports that the Commission receives, completed NORS reports will have the location information needed to determine if an outage occurs in a rural county.⁷⁵

Joint Parties: Joint Parties combine their responses here to the compliance summaries for OPs 19 and 20. They ask that the Commission verify whether the data requests required by OP 20 are still in effect and whether carriers are complying with the requests.⁷⁶ Joint Parties further ask that if staff believes that

⁷² *Id.*, at 3.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*, at 27.

the requests are not useful, there should be a process to seek a change in the requirement set in D.16-12-066.

Additionally, Joint Parties allege that information regarding what form the data request took or how the staff analysis was presented has not been provided.⁷⁷ They ask that the Commission, at a minimum, release the staff analysis and provide parties an opportunity to review and analyze the data and to submit comments.

Discussion

The Commission rejects the factual requests from PAO and Joint Parties that go beyond the scope of OP 20. These would include increasing the sample size and examining outages in winter and summer months (even though comparing summer and winter outages was, in fact, already done), as well as asking for verification that data requests are still in effect and whether carriers have complied. The Commission also rejects party comments that attempt to place additional work obligations on its staff. These would include the suggestion that Communication Division Staff comment on whether the data requests are useful and whether there should be a process to seek a change in the parameters of the request. As Communications Division Staff has conducted the data request as directed by OP 20, and performed its subsequent analysis, the Commission sees no justification for imposing further obligations on Communications Division Staff.

But the Commission is sympathetic to parties' requests for more expository information. As for the requests for clarification or additional information regarding the data sets themselves and the responses, the

⁷⁷ *Id.*

Commission will provide what additional information it can consistent with the confidentiality restrictions attendant to disclosing outage report data. It is settled authority that pursuant to GO 133-D, Section 4.d., major service interruption reports submitted to the Commission “shall be treated as confidential in accordance with Pub. Util. Code § 583 and GO 66-C.” The Commission’s position on treating this information as confidential comports with the FCC’s determination that “given the sensitive nature of this data to both national security and commercial competitiveness, the outage data is presumed to be confidential.” *Network Outage Reporting System (NOR)*.

<https://www.fcc.gov/network-outage-reporting-system-nors>

In accordance with OP 20, Communications Division Staff propounded Data Request Number 1.0-CD-D1612066 to Respondents on March 28, 2017. The threshold for reporting outages was reduced from 900,000 user minutes to 90,000 user minutes for outages of 30 minutes or more for the periods of July 10, 2016 through July 16, 2016, and December 11, 2016 through December 17, 2016. All DS-3 outages⁷⁸ of 30 minutes or more, including simplex events,⁷⁹ were required to be reported. To assist the Respondents in providing their responses, the March 28, 2017 Data Request attached a spreadsheet template with tabs covering the above-identified time periods, thus ensuring uniform population of data fields.

Upon receipt of Respondents’ data, Communications Division Staff compared the outage statistics for the two weeks in 2016, using data already

⁷⁸ DS-3 outages are high capacity transport lines, used by business corporations or government agencies.

⁷⁹ Simplex events are events when backup systems are enabled to maintain DS-3 service, in the event of a DS-3 outage.

received at the current higher threshold (900,000 user minutes) with the data requested at the lower threshold (90,000 user minutes). The specifications of the two thresholds compared in the analysis were as follows:

For residential (single line) outages;
900,000 user minutes, for outages lasting 30 minutes or more
For DS-3 (transport) outages and simplex events: 1,350, DS-3 minutes, for outages lasting 30 minutes or more

For residential (single line) outages:
90,000 user minutes, for outages lasting 30 minutes or more
For DS-3 (transport) outages and simplex events: All outages, regardless of outage duration

After completing its analysis Communications Division made the following findings:

- The number of outage reports submitted to the Commission is predicted to increase from 183 to 943, or by 415% with the lower threshold.
- The amount of reported outage statistics for both residential and transport outages will increase substantially with the lower threshold.
- The total number of reported outages occurring in communities with population of 10,000 or less will increase with the lower threshold.
- There is insufficient information about outage locations being provided through the existing requirements or the proposed threshold to determine the impact of outages on rural communities.

With respect to the last finding, Communications Division Staff explained that the reason why there is insufficient information about outage impacts on

rural communities is due to how the information is received. City and town names are not always reliable indicators of whether an affected location is urban or rural because the location of failed equipment might differ from the area it serves. Communications Division Staff also reports that they lacked reliable classification references for rural vs. urban areas of California. Thus, Communications Division Staff concluded that the types of outage location information (*i.e.* city, state, additional geographical information) provided per the existing requirements do not present a clear picture of whether outages affect rural or urban locations. Whether or not the Commission should consider additional location-based reporting requirements is something that commenting parties may attempt to raise in R.18-03-011 and R.18-12-005.

The Commission concludes that Communications Division complied with OP 20.

2.21. OP 21

Phase 2 of this Proceeding shall explore whether the Commission should require Carriers of Last Resort or other respondents or other carriers under the Commission's jurisdiction to report outages to the California State Warning Center of Cal. Office of Emergency Services, and city, county, and federally recognized tribal Office of Emergency Services official contacts. This Phase shall evaluate the suitability of the thresholds, procedures, and results of the reporting.

2.21.1. Compliance Summary, Party Comments, and Discussion

In view of D.18-07-045's recognition that GO 133-D deems outage reports to be confidential, the Commission does not, at this time, require Carriers of Last Resort or other respondents or other carriers under the Commission's jurisdiction to report outages to the California State Warning Center of Cal OES,

and city, county, and federally recognized tribal OES official contacts. The threshold evaluation was performed as part of compliance with OP 20, and Communications Division determined that no change was necessary.

Party Comments

PAO: PAO states it is unclear from the Compliance Summary what type of evaluation the Communications Division performed, and what were the results.⁸⁰ PAO asks that the Commission investigate whether Cal OES is receiving all the outage reporting information needed and/or whether it could benefit from receiving outage reports for communications services, specifically 9-1-1 services, and report its findings to parties.⁸¹

Joint Parties: Joint Parties question the relevancy of the statement that outage reports provided under GO 133-D are confidential.⁸² They argue that OP 21 does not mention GO 133-D and there is no requirement that a formal report, including the causes of the outage, be provided.⁸³ They reason that the question posed by OP 21 is whether outages themselves should be reported to state, local, and tribal OES contacts, and they answer that question in the affirmative because information sharing is a matter of public safety.⁸⁴ In the event of an emergency, outage report information is essential in order for the public to receive alerts, reach emergency personnel, and for first responders to

⁸⁰ *Id.*, at 4.

⁸¹ *Id.*

⁸² *Id.*, at 28.

⁸³ *Id.*, at 29.

⁸⁴ *Id.*, at 28.

coordinate their efforts. As such, Joint Parties believe notification of outages in this context is different than sharing formal reports.⁸⁵

Joint Parties also argue that in order to advance public safety and comply with OP 21, the Commission should reiterate the need for action to formally evaluate the suitability of the thresholds, procedures, and results of the reporting as part of Phase 2 of this proceeding.⁸⁶ Joint Parties support information sharing between carriers and emergency officials, and that the outage information shared should not be limited to those outages that might exceed the 900,000 user-minute NORs threshold.⁸⁷ They reason that at the time of an outage, it may be unknown how many customers are affected or what the duration of the outage will be. Still, Joint Parties believe that local authorities should be informed as a matter of standard practice.

Discussion

The Commission rejects party comments to the extent they seek to impose obligations on Commission staff that exceed the scope of OP 21. For example, the Commission will not require, as PAO suggests, Communications Division to investigate whether Cal OES is receiving all the outage reporting information needed and/or whether it could benefit from receiving outage reports for communications services. While Communications Division has been and will continue to be in contact with Cal OES regarding outages, it is up to Cal OES to determine if it is receiving all outage reporting information. In fact, the FCC

⁸⁵ *Id.*

⁸⁶ *Id.*, at 29.

⁸⁷ *Id.*

already provides an avenue for persons to request the inspection of materials such as outage reports that are not routinely available for inspection.⁸⁸

Next, the Commission rejects Joint Parties' attempts to dismiss pertinent legal authority and to draw artificial distinctions in the law to gain access to outage reports. First, they argue that GO 133-D is not referenced in OP 21 and that, therefore, there should be no legal impediment to releasing the outages. But whether it is referenced in OP 21, the fact remains that GO 133-D controls the questions of whether outage information may be shared with entities other than the Commission; the FCC. 47 CFR § 4.2 is also controlling on the question of who can receive outage reports. Second, Joint Parties try to draw a distinction between evidence of an outage and a formal report, and reason that the former should be produced as a matter of public safety. But neither GO 133-D nor 47 CFR draw a distinction between outage information and a formal report. It is the evidence of the outage, regardless of the form the information is conveyed, that is confidential.

The Commission concludes that Communications Division has complied with OP 21.

2.22. OP 22

By June 30, 2017, Phase 2 shall convene a Working Group including Communications Division, Safety and Enforcement Division, the parties, and invite Cal OES, and city, county, and federally recognized tribal Office of Emergency Services officials, and the California Utility Emergency Association to discuss and recommend outage reporting thresholds, requirements, and protocols that reflect California's public safety needs and this Commission's responsibilities, including discussion of call completion reporting and improving

⁸⁸ See 47 CFR § 4.2 which references 47 CFR 0.461.

communications between carriers and first responders during emergency situations.

2.22.1.Compliance Summary, Comments, and Discussion

Communications Division reports it has complied with this OP. Staff hosted a Working Group meeting on July 24, 2017. The representatives from state agencies and local authorities described existing outage reporting practices as being voluntary, and identified problems in receiving information about wireless and Voice Over Internet Protocol outages, resulting in a data gap. Staff encouraged local authorities to work with Cal OES to ensure that they receive outage information from the California State Warning Center as required. Telecommunications carriers argued towards restraint in imposing new reporting rules, and offered an industry-developed solution.

Party Comments

Joint Parties: Joint Parties argue that based on this single meeting, as well as the lack of any subsequent activity, Communications Division has not complied with OP 22.⁸⁹ They assert that no information was provided to parties, other than possibly industry participants, and there has been no indication of ongoing activity by the working group in complying with OP 22.⁹⁰ As an example, they refer to the County of Mendocino, whose OES staff allegedly have not been informed about any efforts to develop new reporting standards or protocols.

⁸⁹ *Id.*, at 30.

⁹⁰ *Id.*

Joint Parties also express concerns about the July 24, 2017 meeting itself. They take issue with the make-up of the participants at the July 24, 2017 meeting, the quality of discussion in relation to public safety issues, and the planned next steps for the issues covered by the Working Group Meeting as being insufficient to satisfy OP 22.⁹¹ In their view, OP 22 indicates that the Commission intended for a more participatory and ongoing effort in Phase 2 that would build from the meetings and data gathering required by D.16-12-066. Joint Parties ask that the Commission require staff to prepare a report on the status of working group efforts, including identification of who participated in the working group, explanations for why all parties were not invited, notes or minutes from all informal and formal meetings, and a description of the “industry-developed solution offered by the carriers.”⁹² Joint Parties ask that the report should be entered into the record and made available to the public, with parties being given an opportunity to provide comments.

Discussion

The Commission incorporates by reference the discussion provided above at section 2.18.1 regarding OP 18.

The Commission concludes that Communications Division and SED have complied with OP 22.

2.23. OP 23

Communications Division shall monitor outage reports submitted to the Commission and their effect on user minutes, users, and public safety, and monitor other outages that fall below the Major Service Interruption threshold of General Order 133-D.

⁹¹ *Id.*

⁹² *Id.*, at 31.

2.23.1.Compliance Summary, Comments, and Discussion

Communications Division reports that it has complied with this OP. Publicly available analysis and reports are posted on the Commission's web page entitled "Telecommunication Carriers' Service Quality Reports."⁹³

Party Comments

Joint Parties: Joint Parties disagree with Communications Division's claimed compliance.⁹⁴ Joint Parties assert that OP 23 was not limited to GO 133-D reporting data but this is all that Communications Division posted. Joint Parties claim that OP 23, instead, required that staff monitor the impact of outages on users and public safety and other outages that fall below the Major Service Interruption threshold of GO 133-D.

Joint Parties also question the accuracy of the Telecommunication Carriers' Service Quality Reports.⁹⁵ While they state the Reports identified no major service interruptions, one did occur in August 2014 in Mendocino County when fiber was cut. They allege that the Reports are also incomplete because there is no discussion of steps staff may have taken to determine the effect of a major service interruption on user minutes, users, or public safety.

Finally, Joint Parties want more engagement by the Commission.⁹⁶ They ask that the Commission order staff to explain the steps it takes to assess the impact of major outages on public safety, and to provide an opportunity for the parties to comment.

⁹³ <http://www.cpuc.ca.gov/General.aspx?id=1107>

⁹⁴ Joint Parties' Opening Comments at 32.

⁹⁵ *Id.*

⁹⁶ *Id.*, at 33.

Discussion

Joint Parties err when they assert that Communications Division's postings are limited to outage information covered by GO 133-D. While it is true the Service Quality Reports website does contain a reference and link to the May 8, 2018 report entitled *California Wireline Telephone Service Quality Pursuant to General Orders 133-C and 133-D Calendar Years 2014 through 2016*, the Service Quality Reports website also includes other types of outage information reports. First, Communications Division put out an earlier report in April 2018 entitled *Analysis of Major Communication Outages in California during the 2017 January-February Storms*, which included an analysis of the impact of outages on user minutes, users, and public safety, and included Communications Division's recommendations for improving communication network reliability and carrier service quality performance. Second, the Service Quality Reports website also includes information on outages that fall below the Major Service Interruption threshold established by GO 133-D. For example, the carriers collect information monthly on all outages and report those outages to Communications Division on a quarterly basis. The Service Quality Reports website contains links to these quarterly reports from 2011 through 2018. Thus, when one considers the totality of the available information that Communications Division has made public, the Commission concludes that there is more accessible information regarding outages than Joint Parties suggest.

Joint Parties also fail in their criticism of the completeness of the outage reporting. While they claim that an outage in Mendocino County was not included in the *California Wireline Telephone Service Quality Pursuant to General Orders 133-C and 133-D Calendar Years 2014 through 2016*, they overlook the fact that the Mendocino County incident they reference was not a wireline telephone

service quality incident and, as such, would not have been included in the Communications Division Staff Report of May 8, 2018.

Finally, the Commission rejects Joint Parties' request for more Communications Division's engagement on the grounds Communications Division is already weighing the effects of major outages and the impacts on user minutes, users, and public safety, and its assessments are including in the Service Quality Reports identified above. For example, in the *Analysis of Major Communication Outages in California during the 2017 January-February Storms*, Communications Division made the following recommendations to improve communication network reliability:

- Meet with major service providers to conduct review of network performance and understand specific drivers that may contribute to sub-par performance.
- Understand network improvement plans of carriers for counties with population density of fewer than 10 persons per square mile.
- Review infrastructure program investments to assess the quality of service and redundancy of network facilities in those areas.
- Compare major service outage data to other service quality data to pinpoint vulnerable locations in California.
- Evaluate this report's recommendations together with the network examination, the results of which will provide insights and suggested corrective action plans on the condition of carrier network infrastructure and facilities.
- Meet with poor performing wireless service providers to discuss what factors contributed to the lower restoration time for cell sites.
- Confer with service providers who did not submit reports during the January-February 2017 period to confirm whether they had reportable outages.

- Work to provide public information on communications outage while addressing carrier confidentiality concerns.⁹⁷

In sum, with its R.18-03-011 and R.18-12-005 open proceedings (discussed, *infra*, at Section 4, Question 3), the Commission remains engaged in the issue of service quality and how outages impact public safety, and continues to solicit public comment and participation in the proceedings. Closing the instant proceeding will not preclude Joint Parties or any public member from commenting on these important issues in the future.

The Commission concludes that Communications Division has complied with OP 23.

2.24. OP 24

The Executive Director shall direct the Commission's News and Outreach Office to determine the feasibility of continuing and enhancing the Call Completion survey and reporting tool now available on the Commission's web site developed during this OII, as feasible, and to look into the feasibility of developing an Application to allow for easy mobile input and viewing of material relevant to telephone corporation compliance with Commission rules including outages, 9-1-1 access and initiation failures, call completion failures, and any associated causes such as compliance with pole safety rules and GO 95 and GO 128.

2.24.1.Compliance Summary

See the Compliance Summary and discussion to OP 3. Additionally, Communications Division reports that there have been 141 complaints input to the web tool between October 2016 and December 2017.

⁹⁷ *Analysis of Major Communication Outages in California during the 2017 January-February Storms* at 30.

The Commission concludes that the Commission's News and Outreach Office has complied with OP 24.

2.25. OP 25

Any reports that respondents and carriers are directed by this decision to provide to California's Office of Emergency Services (Cal OES) shall be submitted to Cal OES via the California State Warning Center.

2.25.1. Compliance Summary, Comments, and Discussion

Communications Division reports that many of the reports and data request responses were submitted to the Commission with attestations of confidentiality. GO 133 Section 4 (d) explicitly states that Major Service Outages (MSI) reports submitted to the Commission should remain confidential. The parties were invited to comment on whether these reports should remain confidential, should be provided to other agencies, or should be publicly released.

Party Comments

PAO: PAO suggests that the Commission should require respondents to provide outage reports to Cal OES, and to share outage reports with Cal OES, if necessary, under terms of a confidentiality agreement or a Memorandum of Understanding.⁹⁸ The Commission can also redact confidential information from the reports prior to their public release, and can use similar methods to protect and disclose future outage reports consistent with General Order 66-D.⁹⁹

Discussion

⁹⁸ *Id.*, at 5.

⁹⁹ *Id.*

The Commission incorporates herein by reference its discussion at Section 2.20.1 regarding the confidentiality of outage reporting.

2.26. OP 26

We direct the Commission's Communications Division and Legal Division to develop and recommend guidelines to ensure that transfers or mergers do not compromise safe and reliable service.

2.26.1. Compliance Summary, Comments, and Discussion

Such considerations are already encompassed by the scope of Article 6 (Transfer or Encumbrance of Utility Property) of the Pub. Util. Code, which includes §§ 851 and 854. (*See also* Pub. Util. Code §§ 451 and 709.) Thus, it was determined that no additional work needs to be done within the confines of this proceeding.

Party Comments

PAO: PAO recommends that the Commission develop guidelines to examine service quality following a merger to ensure companies are complying with merger conditions and improving service quality once the transaction has concluded.¹⁰⁰ PAO claims that establishing guidelines will provide clear and data-driven metrics on customer experience that can demonstrate whether customers are receiving safe and reliable service.¹⁰¹ Finally, PAO asserts that

¹⁰⁰ *Id.*, at 6.

¹⁰¹ *Id.*

data-related guidelines will allow the Commission to compare the service quality of companies before and after mergers.¹⁰²

Joint Parties: Joint Parties claim that the compliance summary misses the point of OP 26.¹⁰³ The existence of relevant sections of the Public Utilities Code was not enough to prevent the outages and service quality problems experienced by Verizon/Frontier customers as a result of their merger transition. Those provisions have not been updated since the 2016 decision, wherein Joint Parties claim the Commission found that the statutes do not go far enough and that the processes for reviewing mergers is not enough.

Discussion

The current law already establishes the guidelines for the Commission to utilize when asked to approve a transaction that amounts to a merger, acquisition, or control. Pub. Util. Code § 854 sets forth a standard of review to apply to proposed mergers if the gross annual California revenues exceed \$500 million. Under Pub. Util. Code § 854(b), the Commission considers the transactions short-term and long-term economic benefits to ratepayers as well as the effect on competition. Under Pub. Util. Code § 854(c),¹⁰⁴ the Commission

¹⁰² *Id.*

¹⁰³ *Id.*, at 33.

¹⁰⁴ Pub. Util. Code § 854(c) states:

Before authorizing the merger, acquisition, or control of any electric, gas, or telephone utility organized and doing business in this state, where any of the entities that are parties to the proposed transaction has gross annual California revenues exceeding five hundred million dollars (\$500,000,000), the commission shall consider each of the criteria listed in paragraphs (1) to (8), inclusive, and find, on balance, that the merger, acquisition, or control proposal is in the public interest.

(2) Maintain or improve the quality of service to public utility ratepayers in the state.

considers the transaction's compliance with eight additional requirements, one of which is whether the transaction will "maintain or improve the quality of service to ratepayers." Consistent with its oversight authority, the Commission has opened its own proceedings¹⁰⁵ and has applied Pub. Util. Code § 854(c) to determine if a merger, acquisition, or control transaction should be approved.¹⁰⁶

In addition to complying with the statutory directives, the Commission has also adopted GO 133-D, which articulated updated uniform minimum standards of service in the operation of public utility telephone corporations.¹⁰⁷ Section 3 of GO 133-D sets forth minimum telephone service measures that cover the following categories of service quality: installation interval (section 3.1); installation commitments (Section 3.2); customer trouble reports (Section 3.3); out of service repair intervals (Section 3.4); and answer time for trouble reports, billing, and non-billing inquiries (Section 3.5).

The Commission rejects Joint Parties' request for, in effect, a modification of GO 133-D because of the service problems that occurred following the Verizon-Frontier transfer of control. The record in this proceeding demonstrates that following the Verizon-Frontier transfer of control, Communications Division

¹⁰⁵ See, e.g., I.11-06-009 (*Order Instituting Investigation on the Commission's Own Motion into the Planned Purchase and Acquisition by AT&T Inc. of T-Mobile USA, Inc., and its Effect on California Ratepayers and the California Economy*).

¹⁰⁶ See, e.g., D.05-11-029 at 86-87 (Transfer Control of MCI's California Utility Subsidiaries to Verizon); and D.97-03-067 (7 CPUC2d 351, 393-395 [Re Pacific Telesis Group and SBC Communications merger]).

¹⁰⁷ The changes resulting in GO 133-D were the result of the Commission opening R.11-12-001 (*Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules*) and receiving considerable constructive input from the parties. On August 29, 2016, the Commission issued D.16-08-021 and adopted GO 133-D, replacing GO 133, GO 133-B, and GO 133-C.

investigated the complaints of service quality and reviewed Frontier's root cause analysis to determine if any additional guidelines should be adopted over and above what was adopted by GO 133-D. As part of its review, Communications Division was able to evaluate Frontier's representations in this proceeding that it had remedied the service quality problems caused by the "cutover" from Verizon's systems to Frontier's.¹⁰⁸ Frontier further states it has committed to improve network and service quality and to expand broadband services.¹⁰⁹ As GO 133-D was adopted after the Verizon-Frontier transfer, the Commission should give GO 133-D an opportunity to work by evaluating its effectiveness in preserving service quality in the event there is a future application for a merger, acquisition, or change in control.

The Commission also rejects PAO's suggestion that the Commission develop post-merger guidelines to evaluate the impact of the transaction on service quality. GO 133-D, Section 7 (Staff Investigations and Additional Reporting Requirements) already vests Communications Division with the authority to investigate the reporting units subject to the service quality requirements in GO 133-D, Section 3. In addition, Communications Division also the power to propound data requests and gather information that will allow it to evaluate the potential impact of a future merger, acquisition or change in control on service quality. As each merger, acquisition, or change in control may have unique factual underpinnings, the Commission believes it best to allow Communications Division to use its discretion to gather the unique information it believes is needed in order to evaluate transactions covered by Pub. Util. Code §

¹⁰⁸ Frontier's *Opening Comments* (December 5, 2016) at 7-8.

¹⁰⁹ *Id.*, at 9.

854. Any requests for improvement to the Commission's oversight jurisdiction can be addressed in a future rulemaking wherein additional improvements to GO 133-D can be suggested.

3. Compliance with Phase II Scoping Memo and Ruling of Assigned Commissioner

3.1. The Carryover Requirements from D.16-12-066

Compliance with OPs 1, 2, 5, 6, 7, 11, and 16 was carried over into Phase II of this proceeding. As explained above in Section 2, the designated Commission staff and responsible parties have complied with these OPs.

3.2. The Outage Reporting Requirements and Workshop

In view of the FCC's determination that major service interruption reports are confidential, no additional work need be undertaken in this proceeding.

3.3. Completeness of Compliance with OPs 1, 2, 5, 6, 7, 11, and 16

In view of the compliance summaries provided above in Section 2, it does not appear that any additional work needs to be done with respect to OPs 1, 2, 5, 6, 7, 11, and 16.

3.4. Imposition of New Requirements on Telephone Carriers Consistent with the Commission's Regulatory Authority and the Scope of this Proceeding.

The Commission does not believe it is necessary to keep this proceeding open to consider whether new requirements should be imposed on telephone carriers consistent with the Commission's regulatory authority since the Commission is already vested with the power to adopt new requirements. First, Communications Division is guided by Pub. Util. Code § 451, which requires that utilities provide safe and reliable service. Second, Pub. Util. Code § 709 codifies

the Legislature's direction that California telecommunications providers establish reasonable service quality standards for California Customers. Third, in D.16-08-021, the Commission issued its *Decision Adopting General Order 133-D*, finding that "reliable telephone service is essential for the public to access emergency services, maintain contact with family and friends, conduct business, and find employment."¹¹⁰ D.16-08-021 also concluded that "the public interest requires that telephone corporations furnish safe and reliable service."¹¹¹ Thus, through its adoption of GO 133-D, the Commission established uniform service quality rules for California's public utility telephone corporations. To the extent a telecommunications carrier fails to comply with Pub. Util. Code §§ 451, 709, or GO 133-D, the Commission's staff has the power to take corrective and enforcement action.

Beyond the authorities cited above, currently, as is explained on the Commission's website, the Commission's Communications Division is tasked with oversight of telephone carriers, which includes tracking compliance with the Commission's decisions:

The Communications Division is responsible for licensing, registration and the processing tariffs of local exchange carriers, competitive local carriers, and non-dominant interexchange carriers. It is also responsible for registration of wireless service providers and franchising of video service providers. The Division tracks compliance with commission decisions and monitors consumer protection and service issues and Commission reliability standards for safe and adequate service. The Communications Division is

¹¹⁰ D.16-08-021 at 32, Finding of Fact (FOF) # 4.

¹¹¹ *Id.*, Conclusions of Law # 1.

responsible for oversight and implementation of the six public purpose Universal Service Programs.

The Division also reviews GOs and policies to reflect the emerging competitive environment and changing regulatory structure for the telecommunications industry. The Communications Division is responsible for the implementation and oversight of local competition and competitive issues. The Division reviews, analyzes, and advises on carrier-to-carrier arrangements and interconnection agreements, as well as, competitive access issues. The Division responds to utility applications for mergers, divestitures and acquisitions. The Division also implements Area Code Policy, equal access reform and analysis on number resource allocation issues. The Division develops, advises and implements policy on 911, back-up power and other consumer protection issues.

To the extent Communications Division determines, at a future time, that new or enhanced requirements on telephone carriers are needed to ensure safe, reliable service, Communications Division can work with Legal Division, the ALJs Division, and other relevant staff to request that the Commission open up a new investigation or rulemaking pursuant to Rules 5.1 and 6.1 of the Commission's Rules of Practice and Procedure.

3.5. Monitor the Developments of Guidelines to Ensure that Transfers or Mergers do not Compromise Safe and Reliable Service.

This is one of the Commission's ongoing responsibilities that it carries out pursuant to Pub. Util. Code §§ 851 and 854. (*See also* Pub. Util. Code §§ 451 and 709.) Thus, it does not appear that any additional monitoring needs to be performed in this proceeding.

4. Questions, Party Comments, and Discussion

Question 1

Pursuant to this *Ruling*, parties are ordered to comment on whether they believe the OPs from D.16-12-066 have been complied with and, if not, what additional work must be undertaken and why.

Party Comments

CCTA: CCTA states it has no basis to disagree with the conclusions that the OPs have been complied with.¹¹²

Consolidated: Consolidated believes that the OPs have been complied with.

MCIMetro: MCIMetro states that it has complied with OPs 1, 2, 5, 6, 7, 11, and 16.¹¹³

AT&T: AT&T states that it has complied with OPs 2, 5-7, 11, 12, and 15.¹¹⁴ As for OP 16, AT&T states it informed the Communications Division in a letter dated June 1, 2017 that it partnered with Cal OES in the distribution of its 800 number for California public safety organizations, including information and instructions on contacting AT&T 24x7 during emergencies.¹¹⁵

Joint Parties: As set forth above, Joint Parties take issue with the asserted compliance with OPs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 26. Joint Parties break down the perceived staff work deficiencies and need for follow up into four categories: (1) Transparency: Joint Parties want

¹¹² CCTA's *Opening Comments* at 2.

¹¹³ MCIMetro's *Opening Comments* at 1.

¹¹⁴ AT&T's *Opening Comments* at 1.

¹¹⁵ *Id.*

access to the work that has been performed by staff in response to D.16-12-066; (2) Input: After stakeholders are given access to the requested information, there should be an opportunity for input on whether the materials provided satisfy the data collection requirements of the decision; (3) Follow-Up: As detailed in their Joint Motion, they believe OPs 7, 15, 16, and 22 require additional action and a further working group process beyond the meetings held in the summer of 2017; and (4) Enhance: Wildfires that have taken place since the decision underscore the need for California to do more in the form of disaster preparation, including works by the Commission to address preparation needs among all regulated industries.¹¹⁶

PAO: In its opening comments, PAO states it has no position on whether the Commission complied with OPs 1-12, 14-19, 22, 23, and 24.¹¹⁷ As set forth above, PAO does take issue with the asserted compliance with OPs 13, 20, 21, 25, and 26.

Discussion

Because of the Commission's discussion above regarding OPs 1-7, 9-23, 25, and 26, the Commission concludes that these OPs have been complied with and no additional work need be performed in this proceeding.

Question 2

Pursuant to this *Ruling*, parties are ordered to comment on whether they believe the work required to be completed in Phase II of this proceeding has been completed and, if not, what additional work must be undertaken and why.

Party Comments

¹¹⁶ Joint Parties' *Opening Comments* at 35-37.

¹¹⁷ PAO's *Opening Comments* at 1.

CCTA: CCTA has no basis to disagree with the conclusions that the work is completed. CCTA notes that regarding OP 22, CCTA and its member companies continue to engage with the Cal OES separately from this proceeding, on outage reporting protocols and other practices to address public safety needs during emergency situations.¹¹⁸

Consolidated: Consolidated does not believe that any additional work needs to be performed in this proceeding. It notes that improvements to the quality of collected call completion data are underway at the FCC along with enforcement actions against intermediate carriers and least cost routers not complying with the call-completion requirements. Thus, Consolidated joins in Communications Division's agreement with the FCC's process for such improvements, and that any further work that is necessary is already being taken by the FCC.

MCIMetro: MCIMetro states that the work required by Phase II of this proceeding has been accomplished and it is unnecessary to keep this proceeding open.¹¹⁹

AT&T: AT&T states that to the extent that the OPs include any mandates, such mandates have been complied with by Commission staff.¹²⁰ Accordingly, AT&T states that no additional work be undertaken in Phase II of this proceeding, or any other proceeding.¹²¹

¹¹⁸ *Id.*

¹¹⁹ MCIMetro *Opening Comments* at 2.

¹²⁰ AT&T *Opening Comments* at 2.

¹²¹ *Id.*

In light of the discussion in Section 2 of this decision, the Commission concludes that the work ordered in Phase II of this proceeding has been completed.

Question 3

Finally, pursuant to this *Ruling*, the parties are ordered to comment on whether the work required to be completed in Phase II of this proceeding can be addressed in the following open Commission proceedings:

1. **R.15-06-009.** The Commission opened this rulemaking to, among other things, establish standards for disaster and emergency preparedness plans consistent with Pub. Util. Code § 768.6, which provides as follows:
 - (a) The commission shall establish standards for disaster and emergency preparedness plans within an existing proceeding, including, but not limited to, use of weather reports to preposition manpower and equipment before anticipated severe weather, methods of improving communications between governmental agencies and the public, and methods of working to control and mitigate an emergency or disaster and its aftereffects. The commission, when establishing standards pursuant to this subdivision, may make requirements for small water corporations similar to those imposed on class A water corporations under paragraph (2) of subdivision (f).
 - (b) An electrical corporation, as defined in Section 218 , providing service in California shall develop, adopt, and update an emergency and disaster preparedness plan in compliance with the standards established by the commission pursuant to subdivision (a).

The *Assigned Commissioner's Phase II Scoping Memo and Ruling* states that part of the proceeding's scope will include a determination of "what communications protocols should be considered to ensure that the utilities are

adequately communicating with the Commission, other local, state or federal agencies and other utilities during an emergency?”

2. **R.18-03-011.** In response to the major wildfires of 2017, the Commission adopted Resolutions M-4833 and M-4835, which required electric, gas, communications, and water utilities to take reasonable and necessary steps to assist Californians affected by a series of devastating wildfires in Northern and Southern California. In furtherance of those directives, the Commission opened R.18-03-011 to consider whether the Commission should adopt permanent rules requiring all energy, telecommunications, and water utilities under the Commission’s jurisdiction to make available comparable post-disaster consumer protections measures in the event of certain emergency disaster declarations. The *Assigned Commissioner’s Scoping Memo and Ruling* was filed and served on June 29, 2018, which stated that emergency protections for communications customers was within the proceeding’s scope.

Comments

CCTA: CCTA has no basis to disagree with the conclusions that the work in Phase II of this proceeding is completed. CCTA also notes it is a party to R.18-03-011.

Joint Parties: Joint Parties claim that it is essential that network reliability be undertaken in Phase 2 because newly opened Commission proceedings would not deal with this issue. For example, Joint Parties assert that R.15-06-009 addresses emergency preparedness plans exclusively for electrical corporations and regulated water utilities, but not telecommunications providers.¹²² Joint Parties next cite to R.18-03-011, claiming that the proceeding addresses all regulated utilities, including telecommunications carriers, but is focused on

¹²² Joint Parties’ *Opening Comments* at 8, citing to the *Assigned Commissioner’s Phase II Scoping Memo and Ruling* issued in R.15-06-009 on May 31, 2018.

post-disaster consumer protections.¹²³ In their view, R.18-03-011 does not provide a forum for the Commission to direct action that must be taken by carriers to improve communications resilience in advance of the next fire.

Discussion

The Commission rejects Joint Parties' claim that newly opened Commission proceedings will not deal with network reliability. With respect to R.18-03-011, on October 1, 2018, the Assigned Commissioner and Administrative Law Judge issued their *Ruling Noticing Workshops and Ordering Workshop Statements* to consider expansion of 2-1-1 service during emergencies. Communications providers of voice services were directed to submit preliminary workshop comments addressing:

- Actions taken when disaster strikes;
- Actions during the disaster; and
- Actions taken when the disaster ends.

The *Emergency Disaster Relief Workshop – Communications Service Providers* was held on November 1, 2018 at Cal OES. The Communications Division, Cal OES, communications service providers, other stakeholders, and representatives from short code communications systems attended and participated on discussion panels.

The parties were invited to file additional comments regarding the role that communications providers play in an emergency when the Assigned Commissioner and Administrative Law Judge issued their February 6, 2019 *Ruling Seeking More Information on Emergency Disaster Relief Program*. The *Ruling* incorporated into the record Sonoma County's *Operational Area Alert and Warning*

¹²³ *Id.*, at 8, citing to *Assigned Commissioner's Scoping Memo and Ruling* issued in R.18-03-011 on June 29, 2018.

Functional Exercise After Action Report/Improvement Plan which cited differences in how the telecommunications providers distribute wireless emergency alerts and their impact on emergency management officials. Communications service provider topics that parties were invited to comment on included:

- Improved information sharing between communications service providers, Cal OES, and the California Department of Forestry and Fire Protection;
- Identifying obstacles that stand in the way of hardening cellular infrastructure to ensure continuity of service during disasters;
- Beyond the use of temporary wireless facilities on wheels, other communications services that can restore and/or expand coverage during and after a disaster;
- Improving communications service providers network resiliency;
- Ensuring access to public safety answering points;
- Coordination between industries and first responders;
- Identification of mediums of communication so communications providers can maximize customer awareness of emergency disaster protection;
- Fee structures for short message services; and
- Other topics or issues for the Commission to consider in order to protect the general public and providers' customers during a disaster.

In reviewing the Docket Card, the Commission notes that Joint Parties are parties to R.18-03-011 and have filed comments.¹²⁴

¹²⁴ See *Comments of The Utility Reform Network, Center for Accessible Technology and National Consumer Law Center on the Assigned Commissioner and Administrative Law Judge's Ruling Seeking More Information on Emergency Disaster Relief Program*, filed February 22, 2019.

There is also another proceeding, not previously identified in the *Ruling*, where Joint Parties can raise their telecommunications service quality concerns. In *Order Instituting Rulemaking to Examine Electric Utility De-Energization of Power Lines in Dangerous Conditions*,¹²⁵ the assigned ALJ on March 28, 2019 issued her *Ruling Taking* took *Official Notice of Emergency Proclamation and Entering into Record State of California Alert and Warning Guidelines*. The *Guidelines* include recommendations for telephonic and digital alert systems, and many communications service providers are participating in this proceeding. Thus, while the title of the proceeding refers to electric utility de-energizations, the role that communications service providers can play in maintaining service quality in an emergency is within the scope of this proceeding.

Finally, the Commission notes that on April 8, 2019, the ALJs in R.18-12-005 and R.18-03-011 issued a joint *Ruling* that entered into the record the Commission's report entitled *Safety Principles for Communications Service Providers*. This report stresses the need, during wildfires and other disasters, for a resilient and dependable communications grid to aid first responders and make contact with the public in a timely fashion, and highlights the current legislative and legal impediments to achieving a reliable communications grid.¹²⁶

In sum, Joint Parties are aware that they have other opportunities in existing proceeding to raise their concerns regarding communications service providers in emergency situations.

¹²⁵ R.18-12-005.

¹²⁶ This report was also part of the May 20, 2019 Communications Division *En Banc* entitled *The Future of California's Communications Grid*, an all-day event in which emergency preparedness and response was one of the discussion topics.

The Commission concludes that additional service quality concerns that Joint Parties may wish to raise can be done so in R. 18-03-011 and R.18-12-005, and that the instant proceeding may be closed.

5. Comments on Proposed Decision

The proposed decision of Commissioner Clifford Rechtschaffen in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's rules of Practice and Procedure. Opening comments were filed on _____ by _____, and reply comments were filed on _____ by _____.

6. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Robert M. Mason, III is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Communications Division sought and received California-specific, quarterly call completion data from the FCC for several quarters.
2. The respondents have provided Communications Divisions with their records of call completion problems.
3. A web link on the Commission's main web page has been available for consumers to enter call-completion problems since 2016, (<http://www.cpuc.ca.gov/CallCompletionSurvey/>).
4. The Commission's Legal Division submitted comments to the FCC on August 31, 2017, and recommended that the FCC monitor rural call completion performance through intermediate service providers and hold those providers accountable for call failures.
5. All respondents have submitted their compliance letters to Communications Division as required by OP 5.

6. All respondents have submitted their compliance letters to Communications Division as required by OP 6.

7. The respondents held a meet-and-confer on June 13, 2017. The topics included a meet-and-confer with the 2-1-1, 7-1-1, and 8-1-1 Coalitions; a meet-and-confer with the California Federally Recognized Tribal Emergency Contacts and County Office of Emergency Services; and a discussion regarding distribution of emergency contact information.

8. Communications Division has implemented SB 1212 by working with 2-1-1 agencies and counties to help close the service gaps in coverage, and is looking into whether additional steps are prudent and necessary.

9. Communications Division has examined the network condition, facilities, policies, practices and procedures of AT&T and Frontier.

10. The Commission's Consumer Affairs Branch attended the public participation hearings in this proceeding and made available to all participants information about the Commission's informal and formal complaint processes.

11. The respondents have submitted their compliance letters to Communications Division as required by OP 11.

12. The compliance letters required by OP 11 have been distributed to the Commission's Executive Director, Deputy Executive Director for Safety and Consumer Protection, the Director of Communications Division, the Director of Energy Division, and the Director of the Commission's Safety and Enforcement Division.

13. Communications Division and the Commission's CPED have investigated and determined whether an adjudicatory order instituting investigation should be brought as a result of either the April 9, 2014 outage; the outages resulting

from fiber cuts in Mendocino and Humboldt counties; or the outages following the Verizon-Frontier transaction.

14. CPED analyzed the Mendocino, Humboldt, and Del Norte outages to gauge the effectiveness and adequacy of the FCC's major service interruption reporting requirement thresholds, and by measuring their correlation with the service quality data submitted to the Commission per GO 133.

15. The respondents held a meet-and-confer on June 13, 2017. The topics included a meet-and-confer with the California Federally Recognized Tribal Emergency Contacts and County Office of Emergency Services.

16. The Commission's SED conferred with Cal OES and they are continuing to collaborate to improve communication during emergencies.

17. SED conducted a workshop with Cal OES and addressed options to improve speed of access to communications services during emergencies.

18. Communications Division completed an analysis that compared the 90,000 and 900,000 user minute thresholds for two one-week periods in 2016.

19. Since GO 133-D deems outage reports to be confidential, the Commission does not, at this time, require Carriers of Last Resort or other respondents or other carriers under the Commission's jurisdiction to report outages to the California State Warning Center of Cal OES, and city, county, and federally recognized tribal OES official contacts.

20. Communications Division hosted a Working Group meeting on July 24, 2017. The representatives from state agencies and local authorities attended and described existing outage reporting practices as being voluntary, and identified problems in receiving information about wireless and Voice Over Internet Protocol outages, resulting in a data gap.

21. Publicly available analysis and reports are posted on the Commission's web page entitled "Telecommunication Carriers' Service Quality Reports."

22. There have been 141 service quality complaints input to the web tool between October 2016 and December 2017.

23. R.18-12-005 addresses telecommunications service providers' service quality issues in emergencies.

24. R.18-03-011 addresses telecommunications service providers' service quality issues in emergencies.

Conclusions of Law

1. It is reasonable to conclude that there has been compliance with OPs 1-26 of D.16-12-066.

2. It is reasonable to deny Joint Parties' Motion to Set a Procedural Schedule in Phase 2 of this proceeding.

3. It is reasonable to conclude that additional service quality concerns that Joint Parties may wish to raise can be done in R.18-03-011 and R.18-12-005.

4. It is reasonable to conclude that I.14-05-012 should be closed.

O R D E R

IT IS ORDERED that:

1. Investigation 14-05-012 is closed.

2. Joint Parties' Motion to Set a Procedural Schedule in Phase 2 of this proceeding is denied.

This order is effective today.

Dated _____, 2019, at Los Angeles, California.